MT LEGISLATIVE HISTORY

Chapter 98 1977

Bill H 25 S _____ Original bill & hist. ✓ C

H. Committee on Taxation		S. Committee on Taxation	
Hearing Date(s) _____	C	Hearing Date(s) _____	C
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_____	C	_____	C
_____	C	_____	C
Date Out ~~4/28~~ ✓	C	~~3/5~~ ✓	C
		~~3/4~~ ?	

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 25

INTRODUCED BY MARKS

A BILL FOR AN ACT ENTITLED: "AN ACT TO CONSOLIDATE PROPERTY TAX PROCEDURES FOR THE CENTRALIZED ASSESSMENT OF RAILROADS, UTILITIES, AIRLINES, MINES, AND OIL AND GAS WELLS AND TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING THERETO; AMENDING SECTIONS 84-404, 84-708.1, 84-801, 84-802, 84-901, 84-905, 84-5402, 84-5403, 84-5405, 84-5407, 84-6201, 84-6202, 84-6203, AND 84-6403, R.C.M. 1947; REPEALING SECTIONS 84-719, 84-720, 84-721, 84-722, 84-802.1, 84-803, 84-804, 84-903, 84-903.1, 84-904, 84-906, 84-907, 84-5408, 84-5410, 84-6207, 84-6209, 84-6402, 84-6405, 84-6405.1, 84-6406, 84-6407, 84-6408, AND 84-6410, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Properties centrally assessed. The department of revenue shall centrally assess each year:

(1) the franchise, roadway, roadbeds, rails, rolling stock, and all other property of railroads operated in more than one county in the state or more than one state, but buildings on right-of-way, land outside the right-of-way and improvements thereon, furniture, machinery, and other personal property situated within a county shall be assessed in that county;

(2) utility property owned by a corporation or other person constituting a single and continuous property operated in more than one county or more than one state, including telegraph, telephone, microwave, electric power or transmission lines, natural gas or oil pipelines, canals, ditches, flumes, or like properties, but buildings on right-of-way, land outside the right-of-way and improvements thereon, furniture, machinery, and other personal property situated within a county shall be assessed in that county;

(3) all property of scheduled airlines;

(4) the net proceeds of mines and of oil and gas wells; and

(5) the gross proceeds of coal mines.

Section 2. Notice of assessment -- opportunity for conference -- appeal. After assessing property under [section 1 of this act], the department shall notify the owner of such property, in writing, of the assessed value it has determined. Within 30 days following notification, the taxpayer may demand a review of the validity of the department's assessment. The department shall conduct an assessment review conference, which is not subject to the contested case procedures of the Montana Administrative Procedure Act. Upon consideration following such conference, the department may revise the assessment. Appeals from the final decision may be taken to the state tax appeal board.

INTRODUCED BILL

Section 3. Due date of reports and returns — extensions. Each report or return described in 84-801, 84-901, 84-1320, 84-5402, 84-6202, or 84-6403 shall be delivered to the department on or before March 31 each year. The department may for good cause extend the time for filing a return or report for not more than 30 days.

Section 4. Failure to file report — estimate by department — penalty. If any person fails to file a report or return under [section 3] by March 31 or by such later date as the department may approve, the department shall estimate the value of the property to have been reported on the basis of the best available information. In estimating the value of the net proceeds of mines, the department shall proceed under 84-5407, and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 84-1318. In estimating value under this section, the department may subpoena a person or his agent as specified in 84-716. An assessment based on estimated value is subject to review under 84-711. When the department estimates value, it shall impose and collect a penalty of 2/3 of 1% of the year's tax due for each month or part of a month from the day the report is delinquent until the report or return is filed or until the transmission of the assessment or apportioned assessment to the county or counties concerned, whichever occurs first. Penalties collected under this

section shall be paid into the general fund.

Section 5. Apportionment among counties. The department shall apportion the value of property assessed under 84-802, 84-902, or 84-6404 among the counties in which such property is located. Apportionment shall be on a mileage basis or if the property is of such a character that its value cannot reasonably be apportioned on the basis of mileage, the department may adopt such other method or basis of apportionment as may be just or proper.

Section 6. Transmission to the counties. (1) On or before July 1, the department shall transmit to its agent in each county a statement listing:

(a) the assessed value of railroad property, as determined under 84-802, apportioned to the county, including the length or other description of such property;

(b) the assessed value of utility property, as determined under 84-902, apportioned to the county, including the length or other description of such property;

(c) the assessed value of property of airline companies, as determined under 84-6404, apportioned to the county;

(d) the assessed value of the net proceeds and royalties from mines and oil and gas wells in the county, as determined under 84-5403, 84-5406, 84-6203, and 84-6205; and

(e) the assessed value of the gross proceeds from coal

mines, as described in 84-1320.

(2) The agent of the department shall enter the assessed values so transmitted in the assessment book in a manner prescribed by the department.

Section 7. Amended assessment -- transmission to counties. Whenever the valuation of centrally assessed property is revised under [section 2 of this act] or 84-711, the department shall, within 15 days following the final decision or order, transmit a statement of the revised assessment to its agent or the county officer then having custody of the assessment book in the county where the property is located. The revision shall be immediately entered in the assessment book.

Section 8. Section 84-404, R.C.M. 1947, is amended to read as follows:

"84-404. ~~State department~~ Department of revenue to assign percentage basis, when. The percentage basis of true and full value as provided for in ~~section~~ 84-302, shall be determined and assigned by the ~~state~~ department of revenue, when it makes its annual assessment of the property, which it is required to assess centrally under the laws of this state, ~~and~~ The department shall transmit such determination and assignment to ~~the various county clerks~~ its agents in the various counties with the assessments so made, and its determination shall be final except as to the right of

review in the state tax appeal board or the proper court."

Section 9. Section 84-708.1, R.C.M. 1947, is amended to read as follows:

"84-708.1. Powers and duties of the ~~state~~ department of revenue. (1) ~~To annually assess the franchise, roadway, roadbeds, rails, and rolling stock, and all other property of all railroads, and the pole lines and rights of way and all other property of all telegraph and telephone lines, electric power and transmission lines, ditches, canals and flumes, and other similar property, constituting a single and continuous property operated in more than one (1) county in the state, or more than one (1) state. To apportion such assessments to the counties in which such properties are located on a mileage basis, or if the property of any company assessable under this section is of such a character that its value cannot reasonably be apportioned on the basis of mileage, the department may adopt such other method or basis of apportionment to the county or counties in which the property is situated as may be just and proper. All lots and parcels of real estate not included in right of way, with the buildings, structures, and improvements thereon, dams and power houses, depots, stations, shops, and other buildings, erected upon right of way, furniture, machinery, and other personal property, shall not be considered as a part of any such single and continuous~~

~~property, but shall be considered as separate and distinct therefrom, and shall be assessed by the agent of the department of revenue in the county wherein they are situate~~ The department shall centrally assess the properties described in [section 1 of this act].

(2) ~~To transmit to the county clerk of each county its apportionment of all assessments made by the department~~ The department may adopt rules necessary for the taxation of property under [chapters 8, 9, 13, 54, 62, and 64, and this act].

(3) ~~to~~ The department of revenue shall adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between individual taxpayers; supervise and review the acts of agents of the department; change, increase, or decrease valuations made by its agents; and exercise such authority and do all things necessary to secure a fair, just, and equitable valuation of all taxable property among counties between the different classes of property and between individual taxpayers.

(4) ~~to~~ The department of revenue shall have and exercise general supervision over the administration of the assessment and tax laws of the state, and over its agents and any officers of municipal corporations, having any

duties to perform under any of the laws of this state relating to taxation to the end that all assessments of property be made relatively just and equal at true value in substantial compliance with law, and to supervise the administration of all revenue laws of the state and assist in their enforcement. Further, the ~~state~~ department of revenue ~~is empowered to~~ shall organize, ~~and it shall be its duty to~~ schedule, and hold area schools within the state for appraisers and assessors as often as is ~~deemed~~ considered necessary in the judgment of the department, and the costs of such appraisers and assessors attending shall be borne by the state. Further, the department shall determine if there is a need for a taxing, assessing, and appraising school, and such school shall be held, when ~~deemed~~ considered necessary. The department shall notify all assessors and appraisers at least ~~six (6)~~ months before such school is scheduled, and it shall be the duty of all assessors and appraisers to attend, and the cost of their attendance shall be borne by the state.

(5) ~~to~~ The department of revenue shall confer with, advise, and direct officers of municipal corporations as to their duties, with respect to taxation, under the statutes of the state.

(6) ~~to~~ The department of revenue may direct proceedings, actions, and prosecutions to be instituted to

enforce the laws relating to the penalties, liabilities, and punishment of public officials and persons, or their agents, for failure or neglect to comply with the provisions of the statutes governing the revenue of the state or municipal corporations; and ~~to~~ cause complaints to be made against assessors and other public officers to the proper district court for their removal from office for official misconduct or neglect of duty.

(7) ~~to~~ The department of revenue may require county attorneys to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals, and punishment for violations of the laws of the state in respect to the assessment of property and other revenue laws, in their respective counties.

(8) ~~to~~ The department of revenue shall collect annually from the proper officers of the municipal corporations information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and such other information as may be needful and helpful in the work of the department in such form and upon such blanks as the department shall prescribe; and it shall be the duty of all public officers so called upon to fill out properly and return promptly to the department all blanks so transmitted and in every way aid the department in its

work~~,~~ ~~to~~ The department shall examine the records of all municipal corporations for such purposes as are ~~deemed~~ considered needful or helpful by the department.

(9) (a) ~~in its discretion, to~~ The department of revenue may inspect and examine, or cause an inspection and examination of the records of the officers of any municipality, whenever such officer ~~shall have~~ has failed, neglected, or refused to return properly the information required by this section within the time set by the department. Upon completion of such inspection and examination, the department shall transmit to the clerk, or other proper official of the municipality, a statement of the expenses incurred by the department to secure the necessary information. Within ~~sixty (60)~~ days after the receipt by the municipality of the above statement, the same shall be audited, as other claims of the municipal corporation are audited, and shall be paid into the state treasury, and if the same is not so paid, the attorney general shall institute an action, in the proper court, against the municipality to recover the same.

(b) The officers responsible for the furnishing of the information collected pursuant to this section, shall be jointly and severally liable for any loss the municipality may suffer, through their delinquency; and no payment ~~shall~~ may be made to them for salary, or on any other account,

until the cost of such inspection and examination as provided above ~~shall have~~ has been paid into the treasury, or to the proper officers of such municipality. They shall also be subject to such other fines and penalties as prescribed by law.

(10) ~~to~~ The department of revenue may require persons, ~~as defined above,~~ to furnish information concerning their capital, funded or other debt, current assets and liabilities, cost and value of property, earnings, operating and other expenses, taxes, and all other facts which may enable the department to ascertain the value of the relative burdens borne by all kinds of property and occupations in the state.

(11) ~~to~~ The department of revenue may summon witnesses to appear and give evidence, and to produce records, books, papers, and documents relating to any matter which the department ~~shall have~~ has authority to investigate and determine.

(12) ~~to~~ The department of revenue may cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken upon notice to the interested party, if any, in like manner that depositions are taken in actions pending in the district court, in any matter which the department ~~shall have~~ has authority to investigate and determine.

(13) ~~to~~ The department of revenue may examine ~~into~~ all cases where evasion or violation of the laws for taxation of property, proceeds, occupation, or business is alleged, complained of, or discovered, and ~~to~~ ascertain wherein existing laws are ineffective or are improperly or negligently administered.

(14) ~~to~~ The department of revenue may investigate the tax systems of other states and countries and ~~to~~ formulate and recommend legislation for the better administration of the fiscal laws so as to secure just and equal taxation and improvement in the system of taxation and the economical expenditure of public revenue in the state.

(15) ~~to~~ The department of revenue shall consult and confer with the governor of the state upon the subject of taxation, the administration of the laws relating thereto, and the progress of the work of the department, and ~~to~~ furnish the governor such assistance as he may require.

(16) ~~to~~ The department of revenue shall transmit to the governor and to each member of the legislature ~~twenty (20)~~ days before the meeting of the legislature, a report of the department, showing all the taxable property of the state and the value of the same, in tabulated form, with recommendations for improvements in the system of taxation, together with such measures as may be formulated for the consideration of the legislature, and ~~to~~ include therein a

report showing the selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding states during the biennium, with indexes tabulated at sufficient intervals to show the comparative state price structures.

(17) The department of revenue may, in its discretion, ~~to~~ waive the assessment of penalty for the late filing of any tax statement or return required to be filed with the department when the filing is done within ~~five (5)~~ days of the date specified for filing the return or statement, and for the late payment of any tax collected by the department when the payment is made within ~~five (5)~~ days of the date specified for payment of the tax.

(18) The department of revenue may, in its discretion, ~~to~~ enter into reciprocal agreements with the taxing authorities of states contiguous to the state of Montana which tax the income of Montana residents earned in that state to provide that the tax imposed by Title 84, chapter 49, R.C.M. 1947, on income derived by persons who are nonresidents of this state ~~shall not be~~ is not payable when such other state or states agree to grant similar treatment to residents of Montana."

Section 10. Section 84-801, R.C.M. 1947, is amended to read as follows:

"84-801. Assessment of railroads. The president,

secretary, or managing agent, or such other officer as the ~~state~~ department of revenue may designate, of any corporation, and each person or association of persons, owning or operating any railroad in more than one county in this state, must, ~~on or before the first day of April of~~ each year, furnish the department a statement, signed and sworn to by one of such officers, or by the person or one of the persons forming such association, showing in detail for the year ending ~~on the thirty-first day of~~ December 31, immediately preceding:

(1) ~~The~~ the whole number of miles of railroad in the state, and, where the line is partly out of the state, the whole number of miles without the state, and the whole number within the state, owned or operated by such corporation, person, or association;

(2) the value of the roadway, roadbed, and rails of the whole railroad, and the value of the same within the state;

(3) the width of the ~~right-of-way~~ right-of-way;

(4) the number of each kind of all rolling stock used by such corporation, person, or association in operating the entire railroad, including the part without the state;

(5) ~~Number~~ the number, kind, and value of rolling stock owned and operated in the state;

(6) ~~Number~~ the number, kind, and value of rolling

stock used in the state, but ~~now~~ not owned by the party making the returns;

(7) ~~Number~~ the number, kind, and value of rolling stock owned but used out of the state, either upon divisions of road operated by the party making the returns, or by and upon other railroads;

(8) ~~The~~ the whole number of sidetracks in each county, including the number of miles of track in each railroad yard in the state;

(9) ~~The~~ the number of each kind of rolling stock used in operating the entire railroad, including the part without the state, which must include a detailed statement of the number and value thereof, of all engines, passenger, mail, express, baggage, freight, and other cars, or property owned or leased by such corporation, persons, or association;

(10) ~~The~~ the number of sleeping and dining cars not owned by such corporation, person, or association, but used in operating the railroads of such corporation, person, or association in the state, or on the line of the road without the state, during each month of the year for which the return is made; also the number of miles each month ~~said~~ the cars have been run or operated within and without the state;

(11) ~~A~~ a description of the road, giving the points of entrance into and the points of exit from each county, with

a statement of the number of miles in each county. When a description of the road ~~shall have~~ has once been given, no other annual description thereof is necessary, unless the road ~~shall have~~ has been changed. Whenever the road, or any portion of the road, is advertised to be sold, or is sold for taxes, either state or county, no other description is necessary than that given by, and the same is conclusive upon, the person, corporation, or association giving the description. No assessment is invalid on account of a misdescription of the railroad, or the ~~right of way~~ right-of-way for the same. If such statement is not furnished as above provided, the assessment made by the ~~state~~ department of revenue upon the property of the corporation, person, or association failing to furnish the statement is conclusive and final.

~~(12) Also showing in detail for the year preceding the first of January:~~

~~(a)~~ (12) the gross earnings of the entire road;

~~(b)~~ (13) the gross earnings of the road within the state, and ~~where~~ if the railroad is let to other operators, how much was derived by the lessor as rental;

~~(c)~~ (14) the cost of operating the entire road, exclusive of sinking fund, expenses, of land department, and money paid to the United States;

~~(d)~~ (15) net income for such year, and amount of

dividend declared;

~~(e)~~ (16) capital stock authorized;

~~(f)~~ (17) capital stock paid in;

~~(g)~~ (18) funded debt;

~~(h)~~ (19) number of shares authorized;

~~(i)~~ (20) number of shares of stock issued~~;~~

~~(13)~~ (21) any other facts the ~~state~~ department ~~of revenue~~ may require."

Section 11. Section 84-802, R.C.M. 1947, is amended to read as follows:

"84-802. Assessment~~,~~ ~~—~~ how made. The ~~state~~ department ~~of revenue~~ must assess the franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county. All rolling stock must be assessed in the name of the person, corporation, or association owning, leasing, or using the same. Assessment must be made to the corporation, person, or association of persons owning or leasing or using the same~~,~~ and must be made upon the entire railroad within the state. The depots, stations, shops~~,~~ and buildings erected upon the space covered by the ~~right-of-way~~ right-of-way~~,~~ and all other property owned or leased by such person, corporation, or association, except as above provided, shall be assessed by an agent of the ~~state~~ department ~~of revenue~~ in the county ~~wherein~~ where they are located ~~situate~~. ~~After making such assessment, the~~

~~department shall give written notice thereof to such owner or operator. Within ten (10) days the owner or operator, or any taxpayer, may appear at the department of revenue in person, or otherwise, to show cause why such assessment should be either lowered or raised. On or before the second Monday in July, the department shall apportion such assessment to the counties, school districts, cities, towns, and other tax subdivision, in which such railroad is located.~~"

Section 12. Section 84-901, R.C.M. 1947, is amended to read as follows:

"84-901. Officers of certain telegraph, telephone, electric power~~,~~ and other lines to furnish statement to ~~state~~ department ~~of revenue~~. The president, secretary, or managing agent~~,~~ or such other officer as the ~~state~~ department of revenue may designate~~,~~ of any corporation~~,~~ and each person or association of persons owning or operating a telegraph, telephone, microwave, electric power or transmission line, natural gas pipeline, oil pipeline, canal, ditch, flume, or other property, other than real estate not included in ~~right-of-way~~ right-of-way, and which constitute a single and continuous property throughout more than one county~~,~~ or state, must~~,~~ ~~on or before the first Monday of March in~~ each year~~,~~ furnish the ~~state~~ department ~~of revenue~~ a statement, signed and sworn to by one of such

officers or by the person or one of the persons forming such association, showing in detail for the year ending on ~~the thirty-first day of~~ December 31, immediately preceding, as follows:

~~1.~~ (1) ~~The~~ the whole number of miles of said property in the state, and where the property is partly out of the state, the whole number of miles without the state and the whole number of miles within the state owned or operated by such corporation, person, or association~~.~~;

~~2.~~ (2) ~~The~~ the total value of the entire property and plant both within and without the state~~,~~ and the total value of that portion of the same within the state~~.~~;

~~3.~~ (3) ~~A~~ a complete description of the property within the state, giving the points of entrance into and the points of exit from the state~~,~~ and the points of entrance into and the points of exit from each county, with a statement of the total number of miles in each county in the state~~.~~;

~~4.~~ (4) such other information regarding such property as may be required by the ~~state~~ department ~~of revenue~~."

Section 13. Section 84-905, R.C.M. 1947, is amended to read as follows:

"84-905. Assessment of property — apportionment to counties. The department must assess all the properties described in ~~section~~ 84-901, but franchises granted by the United States must not be assessed, the value of such

properties for assessment purposes to be determined upon such factors as the department ~~shall deem~~ considers proper.

~~On or before the second Monday in July, the department shall apportion such assessment to the counties in which the properties are situated.~~"

Section 14. Section 84-5402, R.C.M. 1947, is amended to read as follows:

"84-5402. Net proceeds tax — statement of yield~~,~~ ~~penalty, extension of time~~. Every person, partnership, corporation, or association~~,~~ engaged in mining, extracting~~,~~ or producing from any quartz vein or lode, placer claim, dump~~,~~ or tailings~~,~~ or other place or sources whatever~~,~~ precious stones or gems, gold, silver, copper, lead, ~~petroleum, natural gas,~~ or other valuable mineral, except coal, must on or before ~~the thirty-first day of~~ March 31 ~~of~~ each year make out a statement of the gross yield and value of the above-named metals or minerals from each mine owned or worked by such person, corporation~~,~~ or association during the year preceding ~~the first day of~~ January 1 of the year in which such statement is made~~, and the value thereof~~. Such statement shall be in the form prescribed by the ~~state~~ department of revenue~~,~~ and must be verified by the oath of ~~such~~ the person completing the statement or the manager, superintendent, agent, president~~,~~ or vice-president of ~~such~~ the corporation, association~~,~~ or partnership~~,~~ and must be

delivered to the ~~state~~ department of revenue on or before ~~the thirty-first day of~~ March 31. Such statement shall show the following:

~~1.~~(1) the name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons, corporations, or associations owning or claiming any royalty interest in the mineral product of such mine or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons, corporations, or associations during the period covered by the statement;

~~2.~~(2) the description and location of the mine;

~~3.~~(3) the number of tons of ore, barrels of petroleum, cubic feet of natural gas, or other mineral products or deposits extracted, produced, and treated or sold from the mine during the period covered by the statement;

~~4.~~(4) ~~The~~ the amount and character of such ores, mineral products, or deposits, and the yield of such ores, mineral products, or deposits from such mine in constituents of commercial value; that is ~~to say~~, the number of ounces of gold or silver, pounds of copper or lead, barrels of petroleum or other crude or mineral oil, cubic feet of natural gas, or other commercially valuable constituents of ~~said~~ the ores, ~~or~~ mineral products or deposits, measured by standard units of measurement, yielded to such person,

corporation, or association so engaged in mining, and to ~~said~~ each royalty ~~holders and each of them~~ holder, if any, during the period covered by the statement;

~~5.~~(5) ~~The~~ the gross yield or value in dollars and cents;

~~6.~~(6) ~~Actual~~ actual cost of extracting ~~same~~ from the mine;

~~7.~~(7) ~~Actual~~ actual cost of transporting to place of reduction or sale;

~~8.~~(8) ~~Actual~~ actual cost of reduction or sale;

~~9.~~(9) ~~Actual~~ actual cost of marketing the product and conversion of same into money;

~~10.~~(10) ~~Cost~~ cost of construction, repairs, and betterments of mines, and cost of repairs and replacements of reduction works;

~~11.~~(11) ~~The~~ the assessed valuation of reduction works for the calendar year for which such return is made;

~~12.~~(12) ~~Actual~~ actual cost of fire insurance and ~~workmen's~~ workers' compensation insurance.

~~If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state department of revenue when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor~~

~~in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state department of revenue required by this section. The state department of revenue shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state department of revenue and deposited to the credit of the general fund of the state of Montana.~~

~~The state department of revenue shall, upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section. This penalty shall be in addition to penalties provided in section 84-5410.~~"

Section 15. Section 84-5403, R.C.M. 1947, is amended to read as follows:

"84-5403. Net proceeds — how computed. (1) The ~~state~~ department ~~of revenue~~ shall calculate ~~and compute~~ from ~~said~~ the returns the gross product yielded from such mine, and its gross value ~~in dollars and cents~~ for the year covered by the statement, and ~~also~~ shall calculate and compute the net proceeds ~~in dollars and cents~~ of ~~said~~ the mine yielded to ~~such~~ the person, corporation, or association ~~so~~ engaged in mining, ~~which said net~~ Net proceeds shall be ~~ascertained and~~ determined by subtracting from the value ~~in dollars and~~

~~cents~~ of the gross product thereof the following, ~~to wit~~:

~~1.~~ (a) ~~All~~ all royalty paid or apportioned in cash or in kind by the person, corporation, or association so engaged in mining;

~~2.~~ (b) ~~All~~ all moneys expended for necessary labor, machinery, and supplies needed and used in the mining operations and developments;

~~3.~~ (c) ~~All~~ all moneys expended for improvements, repairs, and betterments necessary in and about the working of the mine, except as hereinafter provided;

~~4.~~ (d) ~~All~~ all moneys expended for costs of repairs and replacements of the milling and reduction works used in connection with the mine;

~~5.~~ (e) ~~Depreciation~~ depreciation in the sum of ~~six per cent (6%)~~ of the assessed valuation of such milling and reduction works for the calendar year for which such return is made;

~~6.~~ (f) ~~All~~ all moneys actually expended for transporting the ores, and mineral products or deposits from the mines to the mill or reduction works or to the place of sale, and for extracting the metals and minerals therefrom, and for marketing the product and the conversion of the same into money;

~~7.~~ (g) ~~All~~ all moneys expended for fire insurance and ~~workmen's~~ workers' compensation insurance, and for payments

by mine operators to welfare and retirement funds when provided for in wage contracts between mine operators and employees.

(2) In computing the deductions allowable for repairs, improvements, and betterments to the mine, the ~~state~~ department ~~of revenue~~ shall ~~compute and~~ allow ~~ten per cent (10%)~~ 10% of such cost each year for a period of ~~ten (10)~~ 10 years.

(3) No moneys invested in mines or improvements ~~shall~~ may be allowed as a deduction unless all machinery, equipment, and buildings represented by such moneys ~~shall be~~ are returned to the county in which such mine is located for assessment purposes, at the level of assessment of all other property in such county.

(4) No moneys invested in the mines and improvements during any year, except the year for which such statement is made, and except as ~~hereinbefore~~ provided in this section, ~~shall~~ may be included in such expenditures; and such expenditures ~~shall~~ may not include the salaries or any portion thereof, of any person or officer not actually engaged in the working of the mine or superintending the management thereof."

Section 16. Section 84-5405, R.C.M. 1947, is amended to read as follows:

"84-5405. Lien of tax and penalty. The tax and/~~or~~

penalty so assessed on net proceeds ~~shall be and shall constitute~~ are a lien upon all of the right, title, and interest of such operator in or to such mine or mining claim and upon all of the right, title, and interest in or to the machinery, buildings, tools, and equipment used in operating ~~said~~ the mine or mining claim, ~~and the~~ The tax and/~~or~~ penalty on such net proceeds may be collected, and the payment ~~thereof~~ enforced, by the seizure and sale of the personal property upon which the ~~said~~ tax and/~~or~~ penalty ~~is~~ are a lien, in the same manner as other personal property is seized and sold for delinquent taxes, or by the sale of the mine and improvements, as provided for the sale of real property for delinquent taxes, or by the institution of a civil action for its collection in any court of competent jurisdiction, ~~; provided, however, that a resort~~ Resort to any one of the methods of enforcing collection, ~~as herein provided for,~~ shall not bar the right to resort to either or both of the other methods, but ~~that~~ any two or all of the methods ~~herein provided for~~ may be used until the full amount of such tax and/~~or~~ penalty is collected."

Section 17. Section 84-5407, R.C.M. 1947, is amended to read as follows:

"84-5407. False or fraudulent reports, procedure in case of. If any ~~such~~ report required by this chapter contains any willfully false or fraudulent statements as to

the gross amount received by any person, corporation, or association ~~so~~ engaged in mining ~~as aforesaid,~~ for any mine's product, then the ~~said state~~ department ~~of revenue~~ shall compute the gross value of such mine's product~~, and such gross value shall be~~ based upon the average quotations of the price of such mine's product in New York City, or the relative market value at the point of delivery, as evidenced by some established authority or market report~~, such as the Engineering and Mining Journal of New York City, or some other standard publication, giving the market reports for the year covered by the statement; and, provided further, that if~~ If any such person, corporation, or association has sold or otherwise disposed of any of its mine's product at a price substantially below the true market price of such product at the time and place of such sale or disposal, then the ~~state~~ department ~~of revenue~~ shall compute the gross value of such portion of ~~said~~ the mine's product, so sold or disposed of substantially below the market price ~~as aforesaid~~, which gross value shall be based upon the quotations of the price of such mine's product in New York City, or the relative market value at the point of delivery at the time such portion of the product was so sold or otherwise disposed of, as evidenced by some established authority or market report~~, such as the Engineering and Mining Journal, of New York City, or some other standard~~

~~publication giving the market reports for the year covered by such statement.~~ Should there be no quotation covering any particular product, then the ~~state~~ department ~~of revenue~~ shall fix the value of such gross product, or such portion thereof, as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or disposal in such a manner as may seem to be equitable."

Section 18. Section 84-6201, R.C.N. 1947, is amended to read as follows:

"84-6201. Definitions. [1] The term "person," as used in this act, ~~shall mean~~ means and ~~include any~~ includes an individual, firm, ~~copartnership, and~~ partnership, every corporation, joint-stock company, syndicate, ~~and~~ or association.

[2] The terms "operator" and "producer" ~~shall~~ mean any person ~~as defined above~~ who engages in the business of ~~mining, or~~ drilling for, ~~or~~ extracting, or producing any natural gas, petroleum, or other crude or mineral oil.

[3] The term "well" includes each single well or group of wells, including dry wells, in one field or production unit and under the control of one operator or producer."

Section 19. Section 84-6202, R.C.N. 1947, is amended to read as follows:

"84-6202. Statement of yield~~, penalty, extension of~~

~~mine. Every person engaged in mining upon any mine whatsoever containing~~ Each operator or producer of natural gas, petroleum, or other crude or mineral oil must on or before ~~the thirty-first day of~~ March 31 in each year make out and deliver to the ~~state~~ department of revenue a statement of the gross yield of such natural gas, petroleum, or other crude or mineral oil from each ~~mine~~ well owned or worked by such person during the next preceding calendar year, and the value thereof. Such statement shall be in the form prescribed by the ~~state~~ department ~~of revenue~~ and must be verified by the oath of ~~such person~~ the operator or producer or the manager, superintendent, agent, president, or vice-president of such corporation, association, or partnership. Such statement shall show the following:

~~1.~~(1) ~~The~~ the name and address of the operator ~~of the mine~~, together with a list in duplicate of the names and addresses of any and all persons owning or claiming any royalty interest in the ~~mineral product of such mine~~ production from the well or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons during the period covered by the statement;

~~2.~~(2) ~~The~~ the description and location of the ~~mine~~ well;

~~3.~~(3) ~~The~~ the number of cubic feet of natural gas,

barrels of petroleum, or other crude or mineral oil extracted or produced from the ~~mine~~ well during the period covered by the statement;

~~4.~~(4) ~~The~~ the gross yield or value in dollars and cents;

~~5.~~(5) ~~Actual~~ actual cost of extracting ~~same from mine~~ product from well;

~~6.~~(6) ~~Cost~~ cost of construction, repairs, and betterments ~~of mines~~;

~~7.~~(7) ~~Actual~~ actual cost of fire insurance and ~~workmen's~~ workers' compensation insurance.

~~If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state department of revenue when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state department of revenue required by this section. The state department of revenue shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be~~

~~collected by the state department of revenue and deposited to the credit of the general fund of the state of Montana.~~

~~The state department of revenue shall upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section.~~

~~This penalty shall be in addition to penalties provided in section 84-6209.~~"

Section 20. Section 84-6203, R.C.M. 1947, is amended to read as follows:

"84-6203. Net proceeds — how computed. (1) The ~~state~~ department of revenue shall calculate and compute from ~~said~~ the returns the gross product yielded from such ~~mine~~ well, and its gross value ~~in dollars and cents~~ for the year covered by the statement, and ~~also~~ shall calculate ~~and compute~~ the net proceeds ~~in dollars and cents~~ of ~~said mine~~ the well yielded to the producer, ~~such person so engaged in mining,~~ which ~~said~~ net proceeds shall be ~~ascertained and~~ determined by subtracting from the value ~~in dollars and cents~~ of the gross products thereof the following, ~~to wit~~:

~~1. All~~ (a) all royalty paid or apportioned in cash or in kind by the ~~person so engaged in mining~~ operator or producer;

~~2. All~~ (b) all moneys expended for necessary labor, machinery, and supplies needed and used in the ~~mining~~ operations and developments;

~~3. All~~ (c) all moneys expended for improvements, repairs, and betterments necessary in and about the working of the ~~mine~~ well;

~~4. All~~ (d) all moneys expended for fire insurance and ~~workmen's~~ workers' compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.

(2) No moneys invested in the ~~mines~~ well and improvements during any year, except the year for which such statement is made, ~~shall~~ may be included in such expenditures, except as provided in ~~section~~ 84-6204; and such expenditures ~~shall~~ may not include the salaries, or any portion thereof, of any person or officer not actually engaged in the working of the ~~mine~~ well or superintending the management thereof."

Section 21. Section 84-6403, R.C.M. 1947, is amended to read as follows:

"84-6403. Report by airline company. Every airline company engaged in air commerce in this state shall annually, ~~on or before the first day of May,~~ file with the department of revenue, in such form as the department may require, a report under oath, showing the following:

(1) ~~The~~ the name of the person or persons, association, joint-stock company, or corporation;

(2) ~~Under~~ under the laws of what state organized or

existing;

(3) ~~The~~ the location of its principal office;

(4) ~~The~~ the location of its principal office in this state, if any;

(5) ~~The~~ the number of aircraft of each type or kind, the total original cost, the average cost per plane, the total depreciated cost, and the average depreciated cost per plane at the end of the preceding calendar year;

(6) ~~The~~ the number of shares of capital stock authorized, number of shares outstanding, the total par value and the total market value at the end of the preceding calendar year; the par value of outstanding bonds and ~~long term~~ long-term debt, and the market value at the end of the preceding calendar year;

(7) ~~Income~~ income account showing operating revenues and expenses of the entire system and net operating income during the preceding calendar year;

(8) ~~The~~ the total tonnage of passengers, express, and freight first received by the airline company in this state during the preceding calendar year plus the total tonnage of passengers, express, and freight finally discharged by it within this state during the preceding calendar year, and the total of such tonnage first received by the airline company or finally discharged by it, within and without this state during the preceding calendar year;

(9) ~~The~~ the total time in equated plane hours, of all aircraft of the scheduled airline company in flight in this state during the preceding calendar year, plus the total time of such aircraft on the ground in this state during the preceding calendar year and the total of such time in flight or on the ground within and without this state during the preceding calendar year;

(10) ~~The~~ the number of revenue ~~ton-miles~~ ton-miles of passengers, mail, express, and freight flown by the scheduled airline company within this state during the preceding calendar year and the total number of such miles flown by it within and without this state during the preceding calendar year;

(11) ~~The~~ the number of arrivals and departures of all aircraft of the scheduled airline company in this state during the preceding calendar year and the total number of such arrivals and departures within and without this state during the preceding calendar year;

(12) ~~Such~~ such other information as the department of revenue may require."

Section 22. Repealer. Sections 84-719, 84-720, 84-721, 84-722, 84-802.1, 84-803, 84-804, 84-903, 84-903.1, 84-904, 84-906, 84-907, 84-5408, 84-5410, 84-6207, 84-6209, 84-6402, 84-6405, 84-6405.1, 84-6406, 84-6407, 84-6408, and 84-6410, R.C.M. 1947, are repealed.

-End-

2.

TAXATION COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 15	Generally revise and clarify the laws relating to income, gasoline, and corporation taxes.	1/3	Marks	1/10	DO PASS	1/10/77
HB 18	To provide uniform collection procedure for license taxes on express companies, freight line and telephone, sleeping car, telephone companies, etc.	1/3	Marks	1/7	DO PASS	1/7
HB 19	To allocate duties of conducting tax case hearings; specifying procedures in appeals from county tax appeal board decisions & from dept. decisions, etc.	1/3	Marks	1/11	AS SO AMENDED DO PASS	1/28
HB 20	Correct grammar and internal references in property tax & license tax laws; etc.	1/3	Marks	1/6	DO PASS AS AMENDED	1/7
HB 25	To consolidate property tax procedures for centralized assessment of railroads, utilities, airlines, mines, oil & gas wells & to revise & clarify laws; etc.	1/3	Marks	1/10	DO PASS AS SO AMENDED DO PASS	1/28
HB 26	To correct grammar, etc. in coal severance, oil & gas severance, metal mines license tax, & resource indemnity trust tax laws, etc.	1/3	Marks	1/6	DO PASS AS AMENDED	1/7

TAXATION COMMITTEE
45TH LEGISLATURE

The House Taxation committee was called to order by Rep. E.N.Dassinger, Vice-chairman, at 8:00 a.m., in room 434, Capitol Building, Helena, MT. All members were present with the exception of Rep. Steve Waldron, who was excused.

HOUSE BILL 15 — Rep. Robert Marks, sponsor of House Bill 15, explained this is purely a recodification bill with no intended substantive changes. There were no other proponents, and no opponents.

Rep. Robert Marks, sponsor of House Bill 25, stated that this is another recodification bill.

HOUSE BILL 25 — Gorham Swanberg, attorney representing the Burlington Northern, Milwaukee, and Union Pacific Railroads, stated this bill would remove several rights the railroads now have in the area of shared information. He objected to the department of revenue having so much power in the area of information provision. There are three values taken into consideration when figuring taxes on railroad property: capitalization of income; value of the property and plant; value of railroad stock as it exists on the stock market, against debts of the corporation. Of that combined value, 17% is applicable to Montana.

Swanberg proposed an amendment in section 1, page 2, line 21, following "is" to strike "not". This will provide for right of discovery.

Ken Morrison, Inter-county Bureau Chief of the Property Assessment Division of the Department of Revenue, advised that on page 2, section 2(2) the word "utility" is apt to cause some problems since there is a list of the properties affected set forth in the same paragraph. Also, in section 2, page 2, line 18, "30" days is allowed following notification by the taxpayer asking for a review of the assessment. The department feels this is too long a time in which a review may be demanded, and suggests 15 to 20 days would be better for the department in order to meet their deadline of July 1.

Also, in section 4, line 19, page 3, he believes 84-711 should be the reference rather than 84-413. Page 3, line 19, beginning with "When" referring to the penalty proposed, he suggests it be left under the old system of 2/3 of 1% as it would be easier for the assessor to figure when preparing the actual tax statement. In section 10, page 14, line 5, following "this state", "or more than one state" should be added. His suggested changes are attached.

Committee meeting adjourned at 8:30 a.m., at which time the committee went into an executive session.

Rep. Moore closed stating that lowering the tax doesn't affect any of the present coal contracts and there hasn't been a new coal contract initiated since the higher taxation went into effect after the 1975 legislation. The purpose of this bill is to decrease the environmental degradation. Because of the shortage of natural gas, we are going to have to go to more and more coal use, and with compliance coal to burn shipped directly from the mine, it will make the environment stay cleaner.

Questions from the committee revealed that a loss of 7-10 % of the coal might occur in scrubbing operations. The processes for making compliance coal are in the experimental stages, and it may take five years to develop one that will clean up sulfurous coal. Some blending of compliance and noncompliance coal makes for acceptable coal. Some utilities are attempting to buy coal from various sources and blend it to acceptable SO_2 residues.

There is plenty of compliance coal in Montana, but it is not being mined at the present time. The government evidently holds the land and may put it up for lease at some time in the future. There is not enough research on clean-up of coal to know what could be done with various types of coal.

Only the coal subjected to an environmentally beneficiant process would be put into the 20% tax bracket. Coal can now be mined with such a low sulfur content that it would be taxable at 20% without any processing.

Mr. Murry said they are in favor of the coal industry when it meets standards set and would be in favor of having coal cleaned up at the sight of mining. Freight rates are about $2 per ton. Scrubbers would raise the cost of producing coal 20-25% and operating costs would be increased by 20-25% also.

HB 269 allows a 30% tax on coal as it comes out of the ground before any processing for beneficiation. Coal has to be sized and may be oiled, and big mines do not handle retail coal.

Rep. Dan Harrington, District #88, Silver Bow County, sponsor of HB 324, explained this bill provides that special assessments levied against the frontage feet of a lot may be levied against only the shorter side of a corner lot.

HOUSE BILL 324 — In a platted block, the frontage is the shorter of the two abutting sides.

The committee recessed to an executive session.

HOUSE BILL 19 - Rep. O'Keefe made a motion that HB 19 be recommended AS AMENDED DO PASS. Motion carried unanimously.

HOUSE BILL 25 - Rep. O'Keefe moved that HB 25 be placed in front of the committee. Motion was accepted. He then moved that HB 25 be amended. Motion on amendments was adopted. Rep. O'Keefe moved that HB 25 AS AMENDED DO PASS. Motion carried.

HOUSE BILL 321 - Rep. Fabrega moved that HB 321 DO PASS. Unanimously adopted.

HOUSE BILL 102 - Rep. Lien moved that HB 102 DO NOT PASS. Unanimously adopted.

SENATE MEMBERS
NEIL J. LYNCH
VICE CHAIRMAN
GLEN DRAKE
CARROLL GRAHAM
FRANK HAZELBAKER

Montana Legislative Council

State Capitol
Helena, 59601

DIANA DOWLING
DIRECTOR, LEGAL SERVICES;
CODE COMMISSIONER
ROBERT PERSON
DIRECTOR, RESEARCH

LC0015

1977 Legislature
Code Commissioner Bill - Summary

House Bill No. 25

TO CONSOLIDATE PROPERTY TAX PROCEDURES FOR THE CENTRALIZED ASSESSMENT OF RAILROADS, UTILITIES, AIRLINES, MINES, AND OIL AND GAS WELLS.

(This summary does not include discussion of routine form or grammatical changes.)

The assessment and taxation of railroads, utilities, airlines, mines, and oil and gas wells historically was handled directly by the old state board of equalization rather than by the assessor. Long before the 1973 creation of the revenue department and STAB, the sections dealing with this centrally assessed property contained a welter of overlaps, contradictions, and redundancies. The attached bill proposes to repeal all provisions dealing with dates for taxpayer reporting and departmental apportionment, estimated tax, protests and hearings, and penalties, and replace them with seven sections establishing a uniform procedure for these properties.

An earlier draft of this bill, encoded "LC0004," was distributed in April, 1976, to the tax departments of over twenty corporate taxpayers, most of those who pay substantial taxes under these statutes. No objections or comments were received except for several technical amendments suggested by the department. Any differences between 0004 and the attached 0015 are noted in the following memorandum.

1. Section 1. New section declaring that department shall centrally assess the five categories of property. Recapitulates existing law except for adding the word "centrally", since the department is now responsible (by its agents in the counties) for assessing all property. Same as 0004 except that subsection (1), railroads, no longer contains the phrase "constituting a single and continuous property", and subsection (3), airlines, now says "all property of scheduled airlines", without excluding locally assessed airline property.

Section 2. New section directing department to send notices of assessment to centrally assessed taxpayers and to provide a grievance procedure in the form of an assessment review conference at the department followed by a formal STAB hearing. Differs from 0004 by: (a) allowing taxpayer 30 days after notice, instead of August 15, to seek review conference, (b) changing department proceeding from a formal APA contested case hearing to an informal review conference, (c) deleting second Monday in October deadline for final department decisions, and (d) changing STAB hearing from review of record of department hearing to full-fledged hearing at STAB.

Section 3. New section setting uniform due date of March 31 for centrally assessed taxpayers' reports. Same as 0004.

Section 4. New section authorizing department to estimate value of centrally assessed property in the absence of report from taxpayer, and imposing penalty of 2/3 of 1% per month until the report is filed or the estimated assessment is transmitted to the counties. Differs from 0004 by changing "hearing" to "conference" (STAB would conduct the formal hearing), and inserting a cutoff on the running of the penalty when the report is filed.

Section 5. New section directing department to apportion "inter-county" property (railroads, utilities, airlines) among the counties. Differs from 0004 in wording of alternative basis for apportionment if mileage basis is impractical.

Section 6. New section directing department to transmit apportioned assessments and mine or oil field assessments to county assessors, and directing assessors to enter values in assessment book. Same as 0004 except for deletion of word "flight" before "property of airline companies".

Section 7. New section governing method of handling assessments changed as a result of STAB order, court order, or departmental revision. Same as section 8 of 0004 (section 7 of 0004 has been deleted from this bill).

Section 8. Amend 84-404 by inserting the word "centrally" after "assess", since this section always referred to centrally assessed property, delete references to county clerk and substitute assessor, as recipient of apportioned assessments, and insert STAB as a reviewing authority of department decision.

Section 9. Amending 84-708.1, inserting subject and verb at beginning of each subsection, deleting central assessment duties from subsection (1) and cross-referencing to new section 1 of the bill, deleting apportionment duties and substituting authority to adopt rules for centrally assessed property. The department already has a number of administrative code rules citing 84-708.1 as authority, although that authority does not clearly appear. Also making style and grammar changes in subsequent subsections, and indicating verb "shall" before apparent

duties and "may" before apparent powers. This last was not in 0004; other change was in subsection (2), limiting rule-making delegation to centrally assessed properties.

Section 10. Amend 84-801 to make style and grammar changes consistent with recodification, and to delete April 1 reporting deadline--this is replaced by the March 31 date in section 3 of the bill.

Section 11. Amend 84-802 to make style and grammar changes consistent with recodification, and to delete provisions for show-cause "appearance" by protesting railroad companies (replaced by section 2 of the bill) and for 2nd Monday in July apportionment date (replaced by sections 5 and 6 of the bill).

Section 12. Amend 84-901 to delete 2nd Monday in March reporting deadline for utilities--replaced by March 31 in section 3 of the bill, and to make style and grammar changes.

Section 13. Amend 84-905 to delete 2nd Monday in July requirement for apportionment of utility assessments, replaced by July 1 in sections 5 and 6 of the bill, and to make style and grammar changes.

Section 14. Amend 84-5402 to make style and grammar changes, to delete the 2/3 of 1% penalty imposed on taxpayers not reporting net proceeds (replaced by like provision in section 4 of the bill), deleting an additional penalty of $25 per month, and deleting a provision for allowing extensions of filing deadlines (replaced by section 3 of the bill).

Section 15. Amend 84-5403 to make style and grammar changes, and to delete redundant phrases, such as "value in dollars and cents", "calculate and compute", and "ascertain and determine".

Section 16. Amend 84-5405 to delete redundant or superfluous phrases, such as "shall be and shall constitute" or "herein provided for", and to make style and grammar changes.

Section 17. Amend 84-5407 to delete redundant or superfluous phrases, such as "as aforesaid", "value...and such gross value shall be", and the Engineering and Mining Journal of New York City.

Section 18. Amend 84-6201 to add a definition of "well" in order to substitute "well" for the inappropriate term "mine" throughout the oil and gas tax statutes.

Section 19. Amend 84-6202 to delete references to mines and mining and substituting references to production from a well (of oil and gas); delete the 2/3 of 1% penalty, the $25 a month penalty, and the extension of time provision which are replaced by sections 3 and 4 of the bill.

Section 20. Amend 84-6203 by changing mines to wells, "said"s to "the"s; deleting redundancies (value in dollars and cents, ascertained and determined); and making style and grammar changes.

Section 21. Amend 84-6403 by deleting airline assessment reporting date of May 1, replaced by March 31 in section 3 of the bill, and inserting commas for grammatical consistency.

Section 22. Repealers.

84-719 tells the department to assess net proceeds and centrally assessed property by the 3rd Monday in July and to apportion the assessments among the counties as directed by other statutes. This is in the codes more as a cross-reference than as a substantive grant of authority; it would be replaced by sections 1 and 5 of the bill.

84-720 tells the department to transmit the apportioned assessments to the county clerk by the 4th Monday in July, with a copy of each assessment portion sent by the department to the taxpayer. These requirements conflict with those in other sections (e.g., 84-802 tells the department to send its apportionments of railroad assessments to the assessor by the 2nd Monday in July, and oil and gas net proceeds to the assessor by July 1). These provisions would be replaced by section 6 of the bill.

84-721 directs the county clerk to enter the apportioned assessments in the book; again, other sections assign this duty to the assessor. Section 6, subsection (2) of the bill would settle on the assessor.

84-722 provides for hearings, either on the protest of a taxpayer (it means, but does not say, owners of centrally assessed property) or on the motion of the department if it believes an error of assessment has been made, for the purpose of changing an assessment--and for making a record for purposes of STAB and judicial review. As the memo for a companion bill, LC0016, points out, a formal department hearing is a waste of time since STAB will often go over all the same ground in its hearing. Entry of revised assessments are also covered. These provisions are replaced by sections 2 and 7 of the bill.

84-802.1 provides for a hearing before STAB to review the department's decision in railroad assessment. Replaced by section 2 of the bill.

84-803 directs the department to transmit apportioned railroad assessments to the assessors by the 2nd Monday each July and the assessors to list the values in the books. Replaced by section 6 of the bill.

84-804 directs the department to keep a record of railroad assessments and apportionments. The state records management program under the department of administration now handles such records for all state agencies.

84-903 provides for a show-cause "appearance" before the department by utilities protesting central assessments. This is subject to a 10-day limitation. Section 2 of the bill would give utilities 30 days to protest and have an assessment review conference.

84-903.1 provides for a hearing before STAB to review the department's decision in utility assessment. Replaced by section 2 of the bill.

84-904 provides for a hearing when the department has to estimate value due to the taxpayer's failure to file a complete report. Replaced by section 4 of the bill.

84-906 tells the department how to apportion utility assessments among the counties. Replaced by section 6 of the bill.

84-907 tells the department to keep records of utility assessments. Now covered by state records management program.

84-5408 tells the department to transmit mining net proceeds assessments to the counties and tells the assessor how to list them. The second through fifth sentences contain a five-year averaging system which was held unconstitutional in 1959. The constitutional portion is replaced by section 6 of the bill.

84-5410 authorizes the department to estimate the net proceeds of mines when the taxpayer files no report, and imposes criminal penalties for refusing to heed a department subpoena issued for the purpose of making an estimate. The estimation procedure is replaced by section 4 of the bill and the subpoena power is covered under 84-716.

84-6207 tells the department to transmit oil and gas net proceeds to the assessor and tells the assessor how to list them; replaced by section 6 of the bill.

84-6209 authorizes the department to estimate oil and gas net proceeds and provides subpoena powers and sanctions; covered by section 4 of the bill and by 84-716.

84-6402 states that the department shall centrally assess all property of scheduled airlines; replaced by section 1, subsection (3) of the bill.

84-6405 provides for a show-cause "appearance" when a scheduled airline protests its assessment; replaced by section 2 of the bill.

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84-6504.1 provides a STAB hearing to appeal a department assessment of airline property; replaced by section 2 of the bill.

84-6406 authorizes the department to estimate value if an airline does not file a report, and adds a 10% penalty to the tax due in such cases; replaced by section 4, with the penalty changed to 2/3 of 1% per month of delinquency.

84-6407 tells the department to apportion airline assessments and tells the county assessor to list them. It also classifies airline property in "class 7 at 40% of value." Such property is now class 11 property. Apportionment procedures are replaced by sections 5 and 6 of the bill.

84-6408 tells the department to keep records of airline assessments; now covered by state records management program.

84-6410 allows the department to extend the time for filing airline reports; replaced by the first sentence of section 4 of the bill.

HOUSE BILL NO. 25

INTRODUCED BY MARKS

A BILL FOR AN ACT ENTITLED: "AN ACT TO CONSOLIDATE PROPERTY TAX PROCEDURES FOR THE CENTRALIZED ASSESSMENT OF RAILROADS, UTILITIES, AIRLINES, MINES, AND OIL AND GAS WELLS AND TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING THERETO; AMENDING SECTIONS 84-404, 84-708.1, 84-801, 84-802, 84-901, 84-905, 84-5402, 84-5403, 84-5405, 84-5407, 84-6201, 84-6202, 84-6203, AND 84-6403, R.C.M. 1947; REPEALING SECTIONS 84-719, 84-720, 84-721, 84-722, 84-802.1, 84-803, 84-804, 84-903, 84-903.1, 84-904, 84-906, 84-907, 84-5408, 84-5410, 84-6207, 84-6209, 84-6402, 84-6405, 84-6405.1, 84-6406, 84-6407, 84-6408, AND 84-6410, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Properties centrally assessed. The department of revenue shall centrally assess each year:

(1) the franchise, roadway, roadbeds, rails, rolling stock, and all other property of railroads operated in more than one county in the state or more than one state, but buildings on right-of-way, land outside the right-of-way and improvements thereon, furniture, machinery, and other personal property situated within a county shall be assessed in that county;

THIRD READING

(2) ~~utility~~ property owned by a corporation or other person constituting a single and continuous property operated in more than one county or more than one state, including telegraph, telephone, microwave, electric power or transmission lines, natural gas or oil pipelines, canals, ditches, flumes, or like properties, but buildings on right-of-way, land outside the right-of-way and improvements thereon, DAMS AND POWER HOUSES, furniture, machinery, and other personal property situated within a county shall be assessed in that county;

(3) all property of scheduled airlines;

(4) the net proceeds of mines and of oil and gas wells; and

(5) the gross proceeds of coal mines.

Section 2. Notice of assessment -- opportunity for conference -- appeal. After assessing property under [section 1 of this act], the department shall notify the owner of such property, in writing, of the assessed value it has determined. Within ~~30~~ 20 days following notification, the taxpayer may demand a review of the validity of the department's assessment. The department shall conduct an assessment review conference, which is not subject to the contested case procedures of the Montana Administrative Procedure Act. HOWEVER, A PARTY HAS THE RIGHT OF DISCOVERY PRIOR TO ANY ASSESSMENT REVISION REVIEW CONFERENCE. Upon

consideration following such conference, the department may revise the assessment. Appeals from the final decision may be taken to the state tax appeal board.

Section 3. Due date of reports and returns — extensions. Each report or return described in 84-801, 84-901, 84-1320, 84-5402, 84-6202, or 84-6403 shall be delivered to the department on or before March 31 each year. The department may for good cause extend the time for filing a return or report for not more than 30 days.

Section 4. Failure to file report — estimate by department — penalty. If any person fails to file a report or return under [section 3] by March 31 or by such later date as the department may approve, the department shall estimate the value of the property to have been reported on the basis of the best available information. In estimating the value of the net proceeds of mines, the department shall proceed under 84-5407, and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 84-1318. In estimating value under this section, the department may subpoena a person or his agent as specified in 84-716. An assessment based on estimated value is subject to review under 84-711. ~~When the department estimates value, it shall impose and collect a penalty of 2/3 of 1% of the year's tax due for each month or part of a month from the day the report is delinquent until the report or return~~

~~is filed or until the transmission of the assessment or apportioned assessment to the county or counties concerned, whichever occurs first. Penalties collected under this section shall be paid into the general fund.~~ EACH MONTH OR PART OF A MONTH A REPORT IS DELINQUENT, THE DEPARTMENT SHALL IMPOSE AND COLLECT A $25 PENALTY, THE TOTAL NOT TO EXCEED $200, AND SHALL DEPOSIT SUCH PENALTY TO THE CREDIT OF THE GENERAL FUND OF THE STATE OF MONTANA. THE DEPARTMENT WILL ALSO INFORM ITS AGENTS IN THE COUNTIES OF THE DELINQUENCY AND THE AGENTS SHALL ASSESS A PENALTY OF 1/2 OF 1% OF THE TAX DUE FOR EACH MONTH OR PART OF A MONTH THE REPORT IS DELINQUENT.

Section 5. Apportionment among counties. The department shall apportion the value of property assessed under 84-802, 84-902, or 84-6404 among the counties in which such property is located. Apportionment shall be on a mileage basis or if the property is of such a character that its value cannot reasonably be apportioned on the basis of mileage, the department may adopt such other method or basis of apportionment as may be just or proper.

Section 6. Transmission to the counties. (1) On or before July 1, the department shall transmit to its agent in each county a statement listing:

(a) the assessed value of railroad property, as determined under 84-802, apportioned to the county,

including the length or other description of such property;

(b) the assessed value of utility property, as determined under 84-902, apportioned to the county, including the length or other description of such property;

(c) the assessed value of property of airline companies, as determined under 84-6404, apportioned to the county;

(d) the assessed value of the net proceeds and royalties from mines and oil and gas wells in the county, as determined under 84-5403, 84-5406, 84-6203, and 84-6205; and

(e) the assessed value of the gross proceeds from coal mines, as described in 84-1320.

(2) The agent of the department shall enter the assessed values so transmitted in the assessment book in a manner prescribed by the department.

Section 7. Amended assessment -- transmission to counties. Whenever the valuation of centrally assessed property is revised under [section 2 of this act] or 84-711, the department shall, within 15 days following the final decision or order, transmit a statement of the revised assessment to its agent or the county officer then having custody of the assessment book in the county where the property is located. The revision shall be immediately entered in the assessment book.

Section 8. Section 84-404, R.C.M. 1947, is amended to

read as follows:

"84-404. ~~State department~~ Department of revenue to assign percentage basis, when. The percentage basis of true and full value as provided for in ~~section~~ 84-302~~,~~ shall be determined and assigned by the ~~state~~ department of revenue~~,~~ when it makes its annual assessment of the property~~,~~ which it is required to assess centrally under the laws of this state, ~~and~~ The department shall transmit such determination and assignment to ~~the various county clerks~~ its agents in the various counties with the assessments so made, and its determination shall be final except as to the right of review in the state tax appeal board or the proper court."

Section 9. Section 84-708.1, R.C.M. 1947, is amended to read as follows:

"84-708.1. Powers and duties of the ~~state~~ department of revenue. (1) ~~To annually assess the franchise, roadway, roadbeds, rails, and rolling stock, and all other property of all railroads, and the pole lines and rights of way and all other property of all telegraph and telephone lines, electric power and transmission lines, ditches, canals and flumes, and other similar property, constituting a single and continuous property operated in more than one (1) county in the state, or more than one (1) state. To apportion such assessments to the counties in which such properties are located on a mileage basis, or if the property of any~~

~~company assessable under this section is of such a character that its value cannot reasonably be apportioned on the basis of mileage, the department may adopt such other method or basis of apportionment to the county or counties in which the property is situated as may be just and proper. All lots and parcels of real estate not included in right of way, with the buildings, structures, and improvements thereon, dams and power houses, depots, stations, shops, and other buildings, erected upon right of way, furniture, machinery, and other personal property, shall not be considered as a part of any such single and continuous property, but shall be considered as separate and distinct therefrom, and shall be assessed by the agent of the department of revenue in the county wherein they are situate~~ The department shall centrally assess the properties described in [section 1 of this act].

(2) ~~To transmit to the county clerk of each county its apportionment of all assessments made by the department~~ The department may adopt rules necessary for the taxation of property under [chapters 8, 9, 13, 54, 62, and 64, and this act].

(3) ~~to~~ The department of revenue shall adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between

individual taxpayers; supervise and review the acts of agents of the department; change, increase, or decrease valuations made by its agents; and exercise such authority and do all things necessary to secure a fair, just, and equitable valuation of all taxable property among counties between the different classes of property and between individual taxpayers.

(4) ~~to~~ The department of revenue shall have and exercise general supervision over the administration of the assessment and tax laws of the state, and over its agents and any officers of municipal corporations, having any duties to perform under any of the laws of this state relating to taxation to the end that all assessments of property be made relatively just and equal at true value in substantial compliance with law, and to supervise the administration of all revenue laws of the state and assist in their enforcement. Further, the ~~state~~ department of revenue ~~is empowered to~~ shall organize, ~~and it shall be its duty to~~ schedule, and hold area schools within the state for appraisers and assessors as often as is ~~deemed~~ considered necessary in the judgment of the department, and the costs of such appraisers and assessors attending shall be borne by the state. Further, the department shall determine if there is a need for a taxing, assessing, and appraising school, and such school shall be held, when ~~deemed~~ considered

necessary. The department shall notify all assessors and appraisers at least ~~six (6)~~ months before such school is scheduled, and it shall be the duty of all assessors and appraisers to attend, and the cost of their attendance shall be borne by the state.

(5) ~~to~~ The department of revenue shall confer with, advise, and direct officers of municipal corporations as to their duties, with respect to taxation, under the statutes of the state.

(6) ~~to~~ The department of revenue may direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities, and punishment of public officials and persons, or their agents, for failure or neglect to comply with the provisions of the statutes governing the revenue of the state or municipal corporations; and ~~to~~ cause complaints to be made against assessors and other public officers to the proper district court for their removal from office for official misconduct or neglect of duty.

(7) ~~to~~ The department of revenue may require county attorneys to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals, and punishment for violations of the laws of the state in respect to the assessment of property and other revenue laws, in their respective counties.

(8) ~~to~~ The department of revenue shall collect annually from the proper officers of the municipal corporations information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and such other information as may be needful and helpful in the work of the department in such form and upon such blanks as the department shall prescribe; and it shall be the duty of all public officers so called upon to fill out properly and return promptly to the department all blanks so transmitted and in every way aid the department in its work~~,~~ ~~to~~ The department shall examine the records of all municipal corporations for such purposes as are ~~deemed~~ considered needful or helpful by the department.

(9) (a) ~~in its discretion, to~~ The department of revenue may inspect and examine, or cause an inspection and examination of the records of the officers of any municipality, whenever such officer ~~shall have~~ has failed, neglected, or refused to return properly the information required by this section within the time set by the department. Upon completion of such inspection and examination, the department shall transmit to the clerk, or other proper official of the municipality, a statement of the expenses incurred by the department to secure the necessary information. Within ~~sixty (60)~~ days after the

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receipt by the municipality of the above statement, the same shall be audited, as other claims of the municipal corporation are audited, and shall be paid into the state treasury, and if the same is not so paid, the attorney general shall institute an action, in the proper court, against the municipality to recover the same.

(b) The officers responsible for the furnishing of the information collected pursuant to this section, shall be jointly and severally liable for any loss the municipality may suffer, through their delinquency; and no payment ~~shall~~ may be made to them for salary, or on any other account, until the cost of such inspection and examination as provided above ~~shall have~~ has been paid into the treasury, or to the proper officers of such municipality. They shall also be subject to such other fines and penalties as prescribed by law.

(10) ~~to~~ The department of revenue may require persons, ~~as defined above,~~ to furnish information concerning their capital, funded or other debt, current assets and liabilities, cost and value of property, earnings, operating and other expenses, taxes, and all other facts which may enable the department to ascertain the value of the relative burdens borne by all kinds of property and occupations in the state.

(11) ~~to~~ The department of revenue may summon witnesses

to appear and give evidence, and to produce records, books, papers, and documents relating to any matter which the department ~~shall have~~ has authority to investigate and determine.

(12) ~~to~~ The department of revenue may cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken upon notice to the interested party, if any, in like manner that depositions are taken in actions pending in the district court, in any matter which the department ~~shall have~~ has authority to investigate and determine.

(13) ~~to~~ The department of revenue may examine ~~into~~ all cases where evasion or violation of the laws for taxation of property, proceeds, occupation, or business is alleged, complained of, or discovered, and ~~to~~ ascertain wherein existing laws are ineffective or are improperly or negligently administered.

(14) ~~to~~ The department of revenue may investigate the tax systems of other states and countries and ~~to~~ formulate and recommend legislation for the better administration of the fiscal laws so as to secure just and equal taxation and improvement in the system of taxation and the economical expenditure of public revenue in the state.

(15) ~~to~~ The department of revenue shall consult and confer with the governor of the state upon the subject of

taxation, the administration of the laws relating thereto, and the progress of the work of the department, and ~~to~~ furnish the governor such assistance as he may require.

(16) ~~to~~ The department of revenue shall transmit to the governor and to each member of the legislature ~~twenty (20)~~ days before the meeting of the legislature, a report of the department, showing all the taxable property of the state and the value of the same, in tabulated form, with recommendations for improvements in the system of taxation, together with such measures as may be formulated for the consideration of the legislature; and ~~to~~ include therein a report showing the selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding states during the biennium, with indexes tabulated at sufficient intervals to show the comparative state price structures.

(17) The department of revenue may, in its discretion, ~~to~~ waive the assessment of penalty for the late filing of any tax statement or return required to be filed with the department when the filing is done within ~~five (5)~~ days of the date specified for filing the return or statement, and for the late payment of any tax collected by the department when the payment is made within ~~five (5)~~ days of the date specified for payment of the tax.

(18) The department of revenue may, in its discretion,

~~to~~ enter into reciprocal agreements with the taxing authorities of states contiguous to the state of Montana which tax the income of Montana residents earned in that state to provide that the tax imposed by Title 84, chapter 49, R.C.M. 1947, on income derived by persons who are nonresidents of this state ~~shall not be~~ is not payable when such other state or states agree to grant similar treatment to residents of Montana."

Section 10. Section 84-801, R.C.M. 1947, is amended to read as follows:

"84-801. Assessment of railroads. The president, secretary, or managing agent, or such other officer as the ~~state~~ department of revenue may designate, of any corporation, and each person or association of persons, owning or operating any railroad in more than one county in this state, OR MORE THAN ONE STATE must, ~~on or before the first day of April of~~ each year, furnish the department a statement, signed and sworn to by one of such officers, or by the person or one of the persons forming such association, showing in detail for the year ending ~~on the thirty-first day of~~ December 31, immediately preceding:

(1) ~~The~~ the whole number of miles of railroad in the state; and, where the line is partly out of the state, the whole number of miles without the state, and the whole number within the state, owned or operated by such

corporation, person, or association~~,~~;

(2) the value of the roadway, roadbed, and rails of the whole railroad~~,~~ and the value of the same within the state~~,~~;

(3) the width of the ~~right-of-way~~ right-of-way~~,~~;

(4) the number of each kind of all rolling stock used by such corporation, person, or association in operating the entire railroad, including the part without the state~~,~~;

(5) ~~Number~~ the number, kind, and value of rolling stock owned and operated in the state~~,~~;

(6) ~~Number~~ the number, kind, and value of rolling stock used in the state~~,~~ but ~~now~~ not owned by the party making the returns~~,~~;

(7) ~~Number~~ the number, kind, and value of rolling stock owned but used out of the state, either upon divisions of road operated by the party making the returns~~,~~ or by and upon other railroads~~,~~;

(8) ~~The~~ the whole number of sidetracks in each county, including the number of miles of track in each railroad yard in the state~~,~~;

(9) ~~The~~ the number of each kind of rolling stock used in operating the entire railroad, including the part without the state, which must include a detailed statement of the number and value thereof~~,~~ of all engines, passenger, mail, express, baggage, freight, and other cars~~,~~ or property owned

or leased by such corporation, persons, or association~~,~~;

(10) ~~The~~ the number of sleeping and dining cars not owned by such corporation, person, or association~~,~~ but used in operating the railroads of such corporation, person, or association in the state~~,~~ or on the line of the road without the state~~,~~ during each month of the year for which the return is made; also the number of miles each month ~~said~~ the cars have been run or operated within and without the state~~,~~;

(11) ~~A~~ a description of the road, giving the points of entrance into and the points of exit from each county, with a statement of the number of miles in each county. When a description of the road ~~shall have~~ has once been given, no other annual description thereof is necessary~~,~~ unless the road ~~shall have~~ has been changed. Whenever the road~~,~~ or any portion of the road~~,~~ is advertised to be sold~~,~~ or is sold for taxes, either state or county, no other description is necessary than that given by, and the same is conclusive upon, the person, corporation, or association giving the description. No assessment is invalid on account of a misdescription of the railroad~~,~~ or the ~~right-of-way~~ right-of-way for the same. If such statement is not furnished as above provided, the assessment made by the ~~state~~ department of revenue upon the property of the corporation, person, or association failing to furnish the

statement is conclusive and final.

~~(12) Also showing in detail for the year preceding the first of January:~~

~~(a)~~ (12) the gross earnings of the entire road;

~~(b)~~ (13) the gross earnings of the road within the state~~,~~ and ~~where~~ if the railroad is let to other operators, how much was derived by the lessor as rental;

~~(c)~~ (14) the cost of operating the entire road, exclusive of sinking fund, expenses~~,~~ of land department, and money paid to the United States;

~~(d)~~ (15) net income for such year~~,~~ and amount of dividend declared;

~~(e)~~ (16) capital stock authorized;

~~(f)~~ (17) capital stock paid in;

~~(g)~~ (18) funded debt;

~~(h)~~ (19) number of shares authorized;

~~(i)~~ (20) number of shares of stock issued~~.~~;

~~(13)~~ (21) any other facts the ~~state~~ department ~~of revenue~~ may require."

Section 11. Section 84-802, R.C.M. 1947, is amended to read as follows:

"84-802. Assessment~~,~~ -- how made. The ~~state~~ department ~~of revenue~~ must assess the franchise, roadway, roadbed, rails, and rolling stock of all railroads operated in more than one county. All rolling stock must be assessed in the

name of the person, corporation, or association owning, leasing, or using the same. Assessment must be made to the corporation, person, or association of persons owning or leasing or using the same~~,~~ and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the ~~right-of-way~~ right-of-way~~,~~ and all other property owned or leased by such person, corporation, or association, except as above provided, shall be assessed by an agent of the ~~state~~ department ~~of revenue~~ in the county ~~wherein~~ where they are located ~~situate~~. ~~After making such assessment, the department shall give written notice thereof to such owner or operator. Within ten (10) days the owner or operator, or any taxpayer, may appear at the department of revenue in person, or otherwise, to show cause why such assessment should be either lowered or raised. On or before the second Monday in July, the department shall apportion such assessment to the counties, school districts, cities, towns, and other tax subdivision, in which such railroad is located.~~"

Section 12. Section 84-901, R.C.M. 1947, is amended to read as follows:

"84-901. Officers of certain telegraph, telephone, electric power, and other lines to furnish statement to ~~state~~ department ~~of revenue~~. The president, secretary, or

managing agent~~,~~ or such other officer as the ~~state~~ department of revenue may designate~~,~~ of any corporation~~,~~ and each person or association of persons owning or operating a telegraph, telephone, microwave, electric power or transmission line, natural gas pipeline, oil pipeline, canal, ditch, flume, or other property, other than real estate not included in ~~right-of-way~~ right-of-way, and which constitute a single and continuous property throughout more than one county~~,~~ or state, must~~,~~ ~~on or before the first Monday of March in~~ each year~~,~~ furnish the ~~state~~ department ~~of revenue~~ a statement, signed and sworn to by one of such officers or by the person or one of the persons forming such association, showing in detail for the year ending on ~~the thirty-first day of~~ December 31, immediately preceding, as follows:

~~1.~~ (1) ~~The~~ the whole number of miles of said property in the state, and where the property is partly out of the state, the whole number of miles without the state and the whole number of miles within the state owned or operated by such corporation, person, or association~~.~~;

~~2.~~ (2) ~~The~~ the total value of the entire property and plant both within and without the state~~,~~ and the total value of that portion of the same within the state~~.~~;

~~3.~~ (3) ~~A~~ a complete description of the property within the state, giving the points of entrance into and the points

of exit from the state~~,~~ and the points of entrance into and the points of exit from each county, with a statement of the total number of miles in each county in the state~~.~~;

~~4.~~ (4) such other information regarding such property as may be required by the ~~state~~ department ~~of revenue~~."

Section 13. Section 84-905, R.C.M. 1947, is amended to read as follows:

"84-905. Assessment of property -- apportionment to counties. The department must assess all the properties described in ~~section~~ 84-901, but franchises granted by the United States must not be assessed, the value of such properties for assessment purposes to be determined upon such factors as the department ~~shall deem~~ considers proper. ~~On or before the second Monday in July, the department shall apportion such assessment to the counties in which the properties are situated.~~"

Section 14. Section 84-5402, R.C.M. 1947, is amended to read as follows:

"84-5402. Net proceeds tax -- statement of yield~~,~~ ~~penalty, extension of time~~. Every person, partnership, corporation, or association~~,~~ engaged in mining, extracting, or producing from any quartz vein or lode, placer claim, dump, or tailings~~,~~ or other place or sources whatever~~,~~ precious stones or gems, gold, silver, copper, lead, ~~petroleum, natural gas,~~ or other valuable mineral, except

coal, must on or before ~~the thirty-first day of~~ March 31 ~~of~~ each year make out a statement of the gross yield and value of the above-named metals or minerals from each mine owned or worked by such person, corporation, or association during the year preceding ~~the first day of~~ January 1 of the year in which such statement is made~~, and the value thereof~~. Such statement shall be in the form prescribed by the ~~state~~ department of revenue, and must be verified by the oath of ~~such~~ the person completing the statement or the manager, superintendent, agent, president, or vice-president of ~~such~~ the corporation, association, or partnership, and must be delivered to the ~~state~~ department of revenue on or before ~~the thirty-first day of~~ March 31. Such statement shall show the following:

~~1.~~ (1) the name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons, corporations, or associations owning or claiming any royalty interest in the mineral product of such mine or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons, corporations, or associations during the period covered by the statement;

~~2.~~ (2) the description and location of the mine;

~~3.~~ (3) the number of tons of ore, barrels of petroleum, cubic feet of natural gas, or other mineral products or

deposits extracted, produced, and treated or sold from the mine during the period covered by the statement;

~~4.~~ (4) ~~The~~ the amount and character of such ores, mineral products, or deposits, and the yield of such ores, mineral products, or deposits from such mine in constituents of commercial value; that is ~~to say~~, the number of ounces of gold or silver, pounds of copper or lead, barrels of petroleum or other crude or mineral oil, cubic feet of natural gas, or other commercially valuable constituents of ~~said~~ the ores, ~~or~~ mineral products or deposits, measured by standard units of measurement, yielded to such person, corporation, or association so engaged in mining, and to ~~said~~ each royalty ~~holders and each of them~~ holder, if any, during the period covered by the statement;

~~5.~~ (5) ~~The~~ the gross yield or value in dollars and cents;

~~6.~~ (6) ~~Actual~~ actual cost of extracting ~~same~~ from the mine;

~~7.~~ (7) ~~Actual~~ actual cost of transporting to place of reduction or sale;

~~8.~~ (8) ~~Actual~~ actual cost of reduction or sale;

~~9.~~ (9) ~~Actual~~ actual cost of marketing the product and conversion of same into money;

~~10.~~ (10) ~~Cost~~ cost of construction, repairs, and betterments of mines, and cost of repairs and replacements

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of reduction works~~,~~;

~~4.~~ (11) ~~The~~ the assessed valuation of reduction works for the calendar year for which such return is made~~,~~;

~~5.~~ (12) ~~Actual~~ actual cost of fire insurance and ~~workmen's~~ workers' compensation insurance.

~~If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state department of revenue when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state department of revenue required by this section. The state department of revenue shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state department of revenue and deposited to the credit of the general fund of the state of Montana.~~

~~The state department of revenue shall, upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section. This penalty shall be in addition to penalties provided in section 84-5410.~~"

Section 15. Section 84-5403, R.C.M. 1947, is amended to read as follows:

"84-5403. Net proceeds -- how computed. (1) The ~~state~~ department ~~of revenue~~ shall calculate ~~and compute~~ from ~~said~~ the returns the gross product yielded from such mine, and its gross value ~~in dollars and cents~~ for the year covered by the statement, and ~~also~~ shall calculate and compute the net proceeds ~~in dollars and cents~~ of ~~said~~ the mine yielded to ~~such~~ the person, corporation, or association ~~so~~ engaged in mining, ~~which said not~~ Net proceeds shall be ~~ascertained and~~ determined by subtracting from the value ~~in dollars and cents~~ of the gross product thereof the following, ~~to wit~~:

~~1.~~ (a) ~~All~~ all royalty paid or apportioned in cash or in kind by the person, corporation, or association so engaged in mining~~,~~;

~~2.~~ (b) ~~All~~ all moneys expended for necessary labor, machinery, and supplies needed and used in the mining operations and developments~~,~~;

~~3.~~ (c) ~~All~~ all moneys expended for improvements, repairs, and betterments necessary in and about the working of the mine, except as hereinafter provided~~,~~;

~~4.~~ (d) ~~All~~ all moneys expended for costs of repairs and replacements of the milling and reduction works used in connection with the mine~~,~~;

~~5.~~ (e) ~~Depreciation~~ depreciation in the sum of ~~six per~~

~~cent (6%)~~ of the assessed valuation of such milling and reduction works for the calendar year for which such return is made~~,~~;

~~6.~~ (f) ~~All~~ all moneys actually expended for transporting the ores~~,~~ and mineral products or deposits from the mines to the mill or reduction works or to the place of sale~~,~~ and for extracting the metals and minerals therefrom~~,~~ and for marketing the product and the conversion of the same into money~~.~~;

~~7.~~ (g) ~~All~~ all moneys expended for fire insurance and ~~workmen's~~ workers' compensation insurance~~,~~ and for payments by mine operators to welfare and retirement funds when provided for in wage contracts between mine operators and employees.

(2) In computing the deductions allowable for repairs, improvements~~,~~ and betterments to the mine, the ~~state~~ department ~~of revenue~~ shall ~~compute and~~ allow ~~ten per cent (10%)~~ 10% of such cost each year for a period of ~~ten (10)~~ 10 years.

(3) No moneys invested in mines or improvements ~~shall~~ may be allowed as a deduction unless all machinery, equipment~~,~~ and buildings represented by such moneys ~~shall be~~ are returned to the county in which such mine is located for assessment purposes, at the level of assessment of all other property in such county.

(4) No moneys invested in the mines and improvements during any year, except the year for which such statement is made~~,~~ and except as ~~hereinbefore~~ provided in this section, ~~shall~~ may be included in such expenditures; and such expenditures ~~shall~~ may not include the salaries or any portion thereof~~,~~ of any person or officer not actually engaged in the working of the mine or superintending the management thereof."

Section 16. Section 84-5405, R.C.M. 1947, is amended to read as follows:

"84-5405. Lien of tax and penalty. The tax and~~/or~~ penalty so assessed on net proceeds ~~shall be and shall constitute~~ are a lien upon all of the right, title~~,~~ and interest of such operator in or to such mine or mining claim and upon all of the right, title~~,~~ and interest in or to the machinery, buildings, tools~~,~~ and equipment used in operating ~~said~~ the mine or mining claim~~,~~ ~~and the~~ The tax and~~/or~~ penalty on such net proceeds may be collected~~,~~ and the payment ~~thereof~~ enforced~~,~~ by the seizure and sale of the personal property upon which the ~~said~~ tax and~~/or~~ penalty ~~is~~ are a lien~~,~~ in the same manner as other personal property is seized and sold for delinquent taxes~~,~~ or by the sale of the mine and improvements, as provided for the sale of real property for delinquent taxes~~,~~ or by the institution of a civil action for its collection in any court of competent

jurisdiction~~.; provided, however, that a resort~~ Resort to any one of the methods of enforcing collection~~, as herein provided for,~~ shall not bar the right to resort to either or both of the other methods, but ~~that~~ any two or all of the methods ~~herein provided for~~ may be used until the full amount of such tax and~~/or~~ penalty is collected."

Section 17. Section 84-5407, R.C.M. 1947, is amended to read as follows:

"84-5407. False or fraudulent reports, procedure in case of. If any ~~such~~ report required by this chapter contains any willfully false or fraudulent statements as to the gross amount received by any person, corporation, or association ~~so~~ engaged in mining ~~as aforesaid,~~ for any mine's product, then the ~~said state~~ department ~~of revenue~~ shall compute the gross value of such mine's product~~, and such gross value shall be~~ based upon the average quotations of the price of such mine's product in New York City~~,~~ or the relative market value at the point of delivery~~,~~ as evidenced by some established authority or market report~~, such as the Engineering and Mining Journal of New York City, or some other standard publication, giving the market reports for the year covered by the statement; and, provided further, that if~~ If any such person, corporation, or association has sold or otherwise disposed of any of its mine's product at a price substantially below the true market price of such

product at the time and place of such sale or disposal, then the ~~state~~ department ~~of revenue~~ shall compute the gross value of such portion of ~~said~~ the mine's product~~,~~ so sold or disposed of substantially below the market price ~~as aforesaid~~, which gross value shall be based upon the quotations of the price of such mine's product in New York City~~,~~ or the relative market value at the point of delivery at the time such portion of the product was so sold or otherwise disposed of, as evidenced by some established authority or market report~~, such as the Engineering and Mining Journal, of New York City, or some other standard publication giving the market reports for the year covered by such statement.~~ Should there be no quotation covering any particular product, then the ~~state~~ department ~~of revenue~~ shall fix the value of such gross product~~,~~ or such portion thereof~~,~~ as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or disposal in such a manner as may seem to be equitable."

Section 18. Section 84-6201, R.C.M. 1947, is amended to read as follows:

"84-6201. Definitions. (1) The term "person~~,~~", as used in this act, ~~shall mean~~ means and ~~include any~~ includes an individual, firm, ~~copartnership, and~~ partnership, every corporation, joint-stock company, syndicate, ~~and~~ or

association.

(2) The terms "operator" and "producer" ~~shall~~ mean any person ~~as defined above~~ who engages in the business of ~~mining, or~~ drilling for, ~~or~~ extracting, or producing any natural gas, petroleum, or other crude or mineral oil.

(3) The term "well" includes each single well or group of wells, including dry wells, in one field or production unit and under the control of one operator or producer."

Section 19. Section 84-6202, R.C.M. 1947, is amended to read as follows:

"84-6202. Statement of yield, ~~penalty, extension of time. Every person engaged in mining upon any mine whatsoever containing~~ Each operator or producer of natural gas, petroleum, or other crude or mineral oil must on or before ~~the thirty-first day of~~ March 31 in each year make out and deliver to the ~~state~~ department of revenue a statement of the gross yield of such natural gas, petroleum, or other crude or mineral oil from each ~~mine~~ well owned or worked by such person during the next preceding calendar year, and the value thereof. Such statement shall be in the form prescribed by the ~~state~~ department ~~of revenue~~ and must be verified by the oath of ~~such person~~ the operator or producer or the manager, superintendent, agent, president, or vice-president of such corporation, association, or partnership. Such statement shall show the following:

~~1.~~ (1) ~~The~~ the name and address of the operator ~~of the mine~~, together with a list in duplicate of the names and addresses of any and all persons owning or claiming any royalty interest in the ~~mineral product of such mine~~ production from the well or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons during the period covered by the statement~~.~~;

~~2.~~ (2) ~~The~~ the description and location of the ~~mine~~ well~~.~~;

~~3.~~ (3) ~~The~~ the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the ~~mine~~ well during the period covered by the statement~~.~~;

~~4.~~ (4) ~~The~~ the gross yield or value in dollars and cents~~.~~;

~~5.~~ (5) ~~Actual~~ actual cost of extracting ~~same from mine~~ product from well~~.~~;

~~6.~~ (6) ~~Cost~~ cost of construction, repairs, and betterments ~~of mines.~~;

~~7.~~ (7) ~~Actual~~ actual cost of fire insurance and ~~workmen's~~ workers' compensation insurance.

~~If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state~~

~~department of revenue when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state department of revenue required by this section. The state department of revenue shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state department of revenue and deposited to the credit of the general fund of the state of Montana.~~

~~The state department of revenue shall upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section.~~

~~This penalty shall be in addition to penalties provided in section 84-6209.~~"

Section 20. Section 84-6203, R.C.M. 1947, is amended to read as follows:

"84-6203. Net proceeds -- how computed. (1) The ~~state~~ department of revenue shall calculate and compute from ~~said~~ the returns the gross product yielded from such ~~mine~~ well, and its gross value ~~in dollars and cents~~ for the year covered by the statement, and ~~also~~ shall calculate ~~and~~

~~compute~~ the net proceeds ~~in dollars and cents~~ of ~~said mine~~ the well yielded to the producer, ~~such person so engaged in mining,~~ which ~~said~~ net proceeds shall be ~~ascertained and~~ determined by subtracting from the value ~~in dollars and cents~~ of the gross products thereof the following, ~~to wit~~:

~~1. All~~ (a) all royalty paid or apportioned in cash or in kind by the ~~person so engaged in mining~~ operator or producer;

~~2. All~~ (b) all moneys expended for necessary labor, machinery, and supplies needed and used in the ~~mining~~ operations and developments;

~~3. All~~ (c) all moneys expended for improvements, repairs, and betterments necessary in and about the working of the ~~mine~~ well;

~~4. All~~ (d) all moneys expended for fire insurance and ~~workmen's~~ workers' compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.

(2) No moneys invested in the ~~mines~~ well and improvements during any year, except the year for which such statement is made, ~~shall~~ may be included in such expenditures, except as provided in ~~section~~ 84-6204; and such expenditures ~~shall~~ may not include the salaries, or any portion thereof, of any person or officer not actually engaged in the working of the ~~mine~~ well or superintending

the management thereof."

Section 21. Section 84-6403, R.C.M. 1947, is amended to read as follows:

"84-6403. Report by airline company. Every airline company engaged in air commerce in this state shall annually~~, on or before the first day of May~~, file with the department of revenue, in such form as the department may require, a report under oath, showing the following:

(1) ~~The~~ the name of the person or persons, association, joint-stock company, or corporation;

(2) ~~Under~~ under the laws of what state organized or existing;

(3) ~~The~~ the location of its principal office;

(4) ~~The~~ the location of its principal office in this state, if any;

(5) ~~The~~ the number of aircraft of each type or kind, the total original cost, the average cost per plane, the total depreciated cost, and the average depreciated cost per plane at the end of the preceding calendar year;

(6) ~~The~~ the number of shares of capital stock authorized, number of shares outstanding, the total par value and the total market value at the end of the preceding calendar year; the par value of outstanding bonds and ~~long term~~ long-term debt, and the market value at the end of the preceding calendar year;

(7) ~~Income~~ income account showing operating revenues and expenses of the entire system and net operating income during the preceding calendar year;

(8) ~~The~~ the total tonnage of passengers, express, and freight first received by the airline company in this state during the preceding calendar year plus the total tonnage of passengers, express, and freight finally discharged by it within this state during the preceding calendar year, and the total of such tonnage first received by the airline company or finally discharged by it, within and without this state during the preceding calendar year;

(9) ~~The~~ the total time in equated plane hours, of all aircraft of the scheduled airline company in flight in this state during the preceding calendar year, plus the total time of such aircraft on the ground in this state during the preceding calendar year and the total of such time in flight or on the ground within and without this state during the preceding calendar year;

(10) ~~The~~ the number of revenue ~~ton-miles~~ ton-miles of passengers, mail, express, and freight flown by the scheduled airline company within this state during the preceding calendar year and the total number of such miles flown by it within and without this state during the preceding calendar year;

(11) ~~The~~ the number of arrivals and departures of all

aircraft of the scheduled airline company in this state during the preceding calendar year and the total number of such arrivals and departures within and without this state during the preceding calendar year;

(12) ~~Such~~ such other information as the department of revenue may require."

Section 22. Repealer. Sections 84-719, 84-720, 84-721, 84-722, 84-802.1, 84-803, 84-804, 84-903, 84-903.1, 84-904, 84-906, 84-907, 84-5408, 84-5410, 84-6207, 84-6209, 84-6402, 84-6405, 84-6405.1, 84-6406, 84-6407, 84-6408, and 84-6410, R.C.M. 1947, are repealed.

-End-

45th LEGISLATIVE SESSION

COMMITTEE ON TAXATION

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO NOT DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
3	3/31	4/7	4/11					4/11	
13	1/12	3/3	3/3				3/3		
15	1/15	3/3	3/3				3/3		
18	1/12	3/4	3/4				3/4		
19	2/5	3/5	3/5 3/14				3/14	3/5	
20	1/12	3/5	3/5					3/5	
25	2/5	3/5	3/5					3/5	
26	1/12	3/15	3/15				3/15		
47	1/19	3/12	3/12				3/12		
47	1/19	3/12	3/12				3/12		
50	2/17	3/8 3/23	3/8 4/4	TABLED				3/8	
67	3/11	4/1 4/4	Transferred	to State	Admin.				
70	3/5	3/23 3/25	3/25 3/29					3/25 3/29	
73	1/15	3/17	3/18					3/18	
85	4/6	4/6	4/6					4/6	
89	2/4	3/9	3/9				3/9		

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 5, 1977

The thirty-third meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Mathers at 8:05 a.m.

ROLL CALL: Roll call found all members present but Sens. Brown, Roskie and Towe, who were excused.

The only witness present was Lester Loble, representing Montana-Dakota Utilities.

CONSIDERATION OF HOUSE BILL 20: Roger Tippy introduced this bill which he states merely clarifies some of the language in the codes, section 84-201, 202 and 406. He distributed Exhibits #1, 2 and 3, attached where explanations and references were made. He explained the repealers and following his presention, there were questions by the committee and an amendment, #1, was adopted.

Sen. Turnage Moved to Adopt Amend. 1, voting unanimous.

DISPOSITION: Sen. Turnage then Moved HB20, As Amended, Be Concurred In. Motion was carried unanimously. (Sen. Watt to carry bill on floor.)

CONSIDERATION OF HOUSE BILL 19: Mr. Tippy also presented this bill and said that a number of mistakes had been made when this legislation was first introduced in 1973 and this bill will amend the sections concerning appeals to the S.T.A.B. and sets up procedures in the Department of Revenue for an assessment review. Mr. Loble introduced Exh. #4, attached, his amendment, which he said he would like to have amended into the bill. He believed anyone should have the right to a hearing other than the 'people's court' as specified in the bill and his amendment would give any taxpayer the right to appeal as he wished.

His amendment was discussed by the committee and they agreed to its adoption.

Sen. Turnage Moved Amend. #1 Be Adopted. The motion was carried unanimously.

DISPOSITION: Sen. Turnage Moved HB19 As Amended, Be Concurred In. The motion was carried unanimously.

CONSIDERATION OF HOUSE BILL 25: This also was a recodification bill and Mr. Tippy explained it in its entirety, pointing out grammatical corrections and clarifications that had been made in the bill. Several amendments were proposed and discussed by the committee, and they agreed on their adoption.

Sen. Turnage Moved the adoption of Amend. #1; motion carried unanimously. Sen. Watt Moved adoption of Amend. #2; motion carried unanimously also and Sen. Turnage then Moved Adoption of Amend. #3, this voting also carried unanimously.

DISPOSITION: Sen. Turnage then Moved HB25 As Amended, Be Concurred In. The motion carried unanimously. (Sen. Mathers to carry bill on floor.)

Following disposition of this bill the meeting adjourned.

WILLIAM MATHERS CHAIRMAN

ROLL CALL

SENATE TAXATION COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 3/5/77

NAME	PRESENT	ABSENT	EXCUSED
SEN. WATT	✓		
SEN. BROWN	Excused		
SEN. GOODOVER	✓		
SEN. HEALY	✓		
SEN. MANNING	✓		
SEN. NORMAN	✓		
SEN. ROSKIE	Excused		
SEN. TOWE	Excused		
SEN. TURNAGE	✓		
CHAIRMAN MATHERS	✓		

Each day attach to minutes.

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March 5, 1977

STANDING COMMITTEE REPORT
Senate Committee on Taxation

That House Bill No. 25 be amended as follows:

1. Amend page 3, section 3, line 7.
Following: "year"
Insert: "and each report described in 84-801 shall be delivered to the department before April 15 each year"

2. Amend page 4, section 4, line 10.
Following: "PENALTY OF"
Strike: "1/2 OF"

3. Amend page 8, section 9, line 15.
Following: "and"
Insert: "may make rules"

STANDING COMMITTEE REPORT

March 5 19 77

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 25

Respectfully report as follows: That HOUSE Bill No. 25,

third reading bill, be amended as follows:

1. Amend page 3, section 3, line 7.
Following: "year"
Insert: "and each report described in 84-801 shall be delivered to the department before April 15 each year"

2. Amend page 4, section 4, line 10.
Following: "PENALTY OF"
Strike: "1/2 OF"

3. Amend page 8, section 9, line 15.
Following: "and"
Insert: "may make rules"

AND AS SO AMENDED,

BE CONCURRED IN

~~DO PASS~~

WILLIAM MATHERS Chairman.

STATE PUB. CO.
Helena, Mont.

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HOUSE BILL NO. 25

INTRODUCED BY MARKS

A BILL FOR AN ACT ENTITLED: "AN ACT TO CONSOLIDATE PROPERTY TAX PROCEDURES FOR THE CENTRALIZED ASSESSMENT OF RAILROADS, UTILITIES, AIRLINES, MINES, AND OIL AND GAS WELLS AND TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING THERETO; AMENDING SECTIONS 84-404, 84-708.1, 84-801, 84-802, 84-901, 84-905, 84-5402, 84-5403, 84-5405, 84-5407, 84-6201, 84-6202, 84-6203, AND 84-6403, R.C.M. 1947; REPEALING SECTIONS 84-719, 84-720, 84-721, 84-722, 84-802.1, 84-803, 84-804, 84-903, 84-903.1, 84-904, 84-906, 84-907, 84-5408, 84-5410, 84-6207, 84-6209, 84-6402, 84-6405, 84-6405.1, 84-6406, 84-6407, 84-6408, AND 84-6410, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Properties centrally assessed. The department of revenue shall centrally assess each year:

(1) the franchise, roadway, roadbeds, rails, rolling stock, and all other property of railroads operated in more than one county in the state or more than one state, but buildings on right-of-way, land outside the right-of-way and improvements thereon, furniture, machinery, and other personal property situated within a county shall be assessed in that county;

REFERENCE BILL

(2) ~~utility~~ property owned by a corporation or other person constituting a single and continuous property operated in more than one county or more than one state, including telegraph, telephone, microwave, electric power or transmission lines, natural gas or oil pipelines, canals, ditches, flumes, or like properties, but buildings on right-of-way, land outside the right-of-way and improvements thereon, DAMS AND POWER HOUSES, furniture, machinery, and other personal property situated within a county shall be assessed in that county;

(3) all property of scheduled airlines;

(4) the net proceeds of mines and of oil and gas wells; and

(5) the gross proceeds of coal mines.

Section 2. Notice of assessment -- opportunity for conference -- appeal. After assessing property under [section 1 of this act], the department shall notify the owner of such property, in writing, of the assessed value it has determined. Within ~~30~~ 20 days following notification, the taxpayer may demand a review of the validity of the department's assessment. The department shall conduct an assessment review conference, which is not subject to the contested case procedures of the Montana Administrative Procedure Act. HOWEVER, A PARTY HAS THE RIGHT OF DISCOVERY PRIOR TO ANY ASSESSMENT REVISION REVIEW CONFERENCE. Upon

consideration following such conference, the department may revise the assessment. Appeals from the final decision may be taken to the state tax appeal board.

Section 3. Due date of reports and returns -- extensions. Each report or return described in 84-801, 84-901, 84-1320, 84-5402, 84-6202, or 84-6403 shall be delivered to the department on or before March 31 each year AND EACH REPORT DESCRIBED IN 84-801 SHALL BE DELIVERED TO THE DEPARTMENT BEFORE APRIL 15 EACH YEAR. The department may for good cause extend the time for filing a return or report for not more than 30 days.

Section 4. Failure to file report -- estimate by department -- penalty. If any person fails to file a report or return under [section 3] by March 31 or by such later date as the department may approve, the department shall estimate the value of the property to have been reported on the basis of the best available information. In estimating the value of the net proceeds of mines, the department shall proceed under 84-5407, and in estimating the value of the gross proceeds of coal mines, the department shall proceed under 84-1318. In estimating value under this section, the department may subpoena a person or his agent as specified in 84-716. An assessment based on estimated value is subject to review under 84-711. ~~When the department estimates value, it shall impose and collect a penalty of 2/3 of 1% of~~

~~the year's tax due for each month or part of a month from the day the report is delinquent until the report or return is filed or until the transmission of the assessment or apportioned assessment to the county or counties concerned, whichever occurs first. Penalties collected under this section shall be paid into the general fund.~~ EACH MONTH OR PART OF A MONTH A REPORT IS DELINQUENT, THE DEPARTMENT SHALL IMPOSE AND COLLECT A $25 PENALTY, THE TOTAL NOT TO EXCEED $200, AND SHALL DEPOSIT SUCH PENALTY TO THE CREDIT OF THE GENERAL FUND OF THE STATE OF MONTANA. THE DEPARTMENT WILL ALSO INFORM ITS AGENTS IN THE COUNTIES OF THE DELINQUENCY AND THE AGENTS SHALL ASSESS A PENALTY OF ~~1/2 of~~ 1% OF THE TAX DUE FOR EACH MONTH OR PART OF A MONTH THE REPORT IS DELINQUENT.

Section 5. Apportionment among counties. The department shall apportion the value of property assessed under 84-802, 84-902, or 84-6404 among the counties in which such property is located. Apportionment shall be on a mileage basis or if the property is of such a character that its value cannot resonably be apportioned on the basis of mileage, the department may adopt such other method or basis of apportionment as may be just or proper.

Section 6. Transmission to the counties. (1) On or before July 1, the department shall transmit to its agent in each county a statement listing:

(a) the assessed value of railroad property, as determined under 84-802, apportioned to the county, including the length or other description of such property;

(b) the assessed value of utility property, as determined under 84-902, apportioned to the county, including the length or other description of such property;

(c) the assessed value of property of airline companies, as determined under 84-6404, apportioned to the county;

(d) the assessed value of the net proceeds and royalties from mines and oil and gas wells in the county, as determined under 84-5403, 84-5406, 84-6203, and 84-6205; and

(e) the assessed value of the gross proceeds from coal mines, as described in 84-1320.

(2) The agent of the department shall enter the assessed values so transmitted in the assessment book in a manner prescribed by the department.

Section 7. Amended assessment -- transmission to counties. Whenever the valuation of centrally assessed property is revised under [section 2 of this act] or 84-711, the department shall, within 15 days following the final decision or order, transmit a statement of the revised assessment to its agent or the county officer then having custody of the assessment book in the county where the property is located. The revision shall be immediately

entered in the assessment book.

Section 8. Section 84-404, R.C.M. 1947, is amended to read as follows:

"84-404. ~~State department~~ Department of revenue to assign percentage basis, when. The percentage basis of true and full value as provided for in ~~section~~ 84-302, shall be determined and assigned by the ~~state~~ department of revenue, when it makes its annual assessment of the property, which it is required to assess centrally under the laws of this state. ~~and~~ The department shall transmit such determination and assignment to ~~the various county clerks~~ its agents in the various counties with the assessments so made, and its determination shall be final except as to the right of review in the state tax appeal board or the proper court."

Section 9. Section 84-708.1, R.C.M. 1947, is amended to read as follows:

"84-708.1. Powers and duties of the ~~state~~ department of revenue. (1) ~~To annually assess the franchises, roadway, roadbeds, rails, and rolling stock and all other property of all railroads, and the pole lines and rights of way and all other property of all telegraph and telephone lines, electric power and transmission lines, ditches, canals and flumes, and other similar property, constituting a single and continuous property operated in more than one (1) county in the state, or more than one (1) state, to apportion such~~

~~assessments to the counties in which such properties are located on a mileage basis or if the property of any company assessable under this section is of such a character that its value cannot reasonably be apportioned on the basis of mileage, the department may adopt such other method or basis of apportionment to the county or counties in which the property is situated as may be just and proper. All lots and parcels of real estate not included in right of way, with the buildings, structures, and improvements thereon, dams and power houses, depots, stations, shops, and other buildings, erected upon right of way, furniture, machinery, and other personal property, shall not be considered as a part of any such single and continuous property, but shall be considered as separate and distinct therefrom, and shall be assessed by the agent of the department of revenue in the county wherein they are situate~~ The department shall centrally assess the properties described in [section 1 of this act].

(2) ~~To transmit to the county clerk of each county its apportionment of all assessments made by the department~~ The department may adopt rules necessary for the taxation of property under [chapters 8, 9, 13, 54, 62, and 64, and this act].

(3) ~~to~~ The department of revenue shall adjust and equalize the valuation of taxable property among the several

counties, and the different classes of taxable property in any county and in the several counties and between individual taxpayers; supervise and review the acts of agents of the department; change, increase, or decrease valuations made by its agents; and exercise such authority and do all things necessary to secure a fair, just, and equitable valuation of all taxable property among counties between the different classes of property and between individual taxpayers.

(4) ~~to~~ The department of revenue shall have and exercise general supervision over the administration of the assessment and tax laws of the state, and over its agents and any officers of municipal corporations, having any duties to perform under any of the laws of this state relating to taxation to the end that all assessments of property be made relatively just and equal at true value in substantial compliance with law, and MAY MAKE RULES to supervise the administration of all revenue laws of the state and assist in their enforcement. Further, the ~~state~~ department of revenue ~~is empowered to~~ shall organize, ~~and it shall be its duty to~~ schedule, and hold area schools within the state for appraisers and assessors as often as is ~~deemed~~ considered necessary in the judgment of the department, and the costs of such appraisers and assessors attending shall be borne by the state. Further, the department shall

determine if there is a need for a taxing, assessing, and appraising school, and such school shall be held, when ~~deemed~~ considered necessary. The department shall notify all assessors and appraisers at least ~~six~~ (6) months before such school is scheduled, and it shall be the duty of all assessors and appraisers to attend, and the cost of their attendance shall be borne by the state.

(5) ~~to~~ The department of revenue shall confer with, advise, and direct officers of municipal corporations as to their duties, with respect to taxation, under the statutes of the state.

(6) ~~to~~ The department of revenue may direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities, and punishment of public officials and persons, or their agents, for failure or neglect to comply with the provisions of the statutes governing the revenue of the state or municipal corporations; and ~~to~~ cause complaints to be made against assessors and other public officers to the proper district court for their removal from office for official misconduct or neglect of duty.

(7) ~~to~~ The department of revenue may require county attorneys to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals, and punishment for violations of the laws of the

state in respect to the assessment of property and other revenue laws, in their respective counties.

(8) ~~to~~ The department of revenue shall collect annually from the proper officers of the municipal corporations information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and such other information as may be needful and helpful in the work of the department in such form and upon such blanks as the department shall prescribe; and it shall be the duty of all public officers so called upon to fill out properly and return promptly to the department all blanks so transmitted and in every way aid the department in its work. ~~to~~ The department shall examine the records of all municipal corporations for such purposes as are ~~deemed~~ considered needful or helpful by the department.

(9) (a) ~~in its discretion, to~~ The department of revenue may inspect and examine, or cause an inspection and examination of the records of the officers of any municipality, whenever such officer ~~shall have~~ has failed, neglected, or refused to return properly the information required by this section within the time set by the department. Upon completion of such inspection and examination, the department shall transmit to the clerk, or other proper official of the municipality, a statement of

the expenses incurred by the department to secure the necessary information. Within ~~sixty--(60)~~ days after the receipt by the municipality of the above statement, the same shall be audited, as other claims of the municipal corporation are audited, and shall be paid into the state treasury, and if the same is not so paid, the attorney general shall institute an action, in the proper court, against the municipality to recover the same.

(b) The officers responsible for the furnishing of the information collected pursuant to this section, shall be jointly and severally liable for any loss the municipality may suffer, through their delinquency; and no payment ~~shall~~ may be made to them for salary, or on any other account, until the cost of such inspection and examination as provided above ~~shall have~~ has been paid into the treasury, or to the proper officers of such municipality. They shall also be subject to such other fines and penalties as prescribed by law.

(10) ~~to~~ The department of revenue may require persons, ~~as defined above,~~ to furnish information concerning their capital, funded or other debt, current assets and liabilities, cost and value of property, earnings, operating and other expenses, taxes, and all other facts which may enable the department to ascertain the value of the relative burdens borne by all kinds of property and occupations in

the state.

(11) ~~to~~ The department of revenue may summon witnesses to appear and give evidence, and to produce records, books, papers, and documents relating to any matter which the department ~~shall have~~ has authority to investigate and determine.

(12) ~~to~~ The department of revenue may cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken upon notice to the interested party, if any, in like manner that depositions are taken in actions pending in the district court, in any matter which the department ~~shall have~~ has authority to investigate and determine.

(13) ~~to~~ The department of revenue may examine ~~into~~ all cases where evasion or violation of the laws for taxation of property, proceeds, occupation, or business is alleged, complained of, or discovered, and ~~to~~ ascertain wherein existing laws are ineffective or are improperly or negligently administered.

(14) ~~to~~ The department of revenue may investigate the tax systems of other states and countries and ~~to~~ formulate and recommend legislation for the better administration of the fiscal laws so as to secure just and equal taxation and improvement in the system of taxation and the economical expenditure of public revenue in the state.

(15) ~~to~~ The department of revenue shall consult and confer with the governor of the state upon the subject of taxation, the administration of the laws relating thereto, and the progress of the work of the department, and ~~to~~ furnish the governor such assistance as he may require.

(16) ~~to~~ The department of revenue shall transmit to the governor and to each member of the legislature ~~twenty-(20)~~ days before the meeting of the legislature, a report of the department, showing all the taxable property of the state and the value of the same, in tabulated form, with recommendations for improvements in the system of taxation, together with such measures as may be formulated for the consideration of the legislature; and ~~to~~ include therein a report showing the selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding states during the biennium, with indexes tabulated at sufficient intervals to show the comparative state price structures.

(17) The department of revenue may, in its discretion, to waive the assessment of penalty for the late filing of any tax statement or return required to be filed with the department when the filing is done within ~~five-(5)~~ days of the date specified for filing the return or statement, and for the late payment of any tax collected by the department when the payment is made within ~~five-(5)~~ days of the date

specified for payment of the tax.

(18) The department of revenue may, in its discretion, to enter into reciprocal agreements with the taxing authorities of states contiguous to the state of Montana which tax the income of Montana residents earned in that state to provide that the tax imposed by Title 84, chapter 49, R.C.M. 1947, on income derived by persons who are nonresidents of this state ~~shall not be~~ is not payable when such other state or states agree to grant similar treatment to residents of Montana."

Section 10. Section 84-801, R.C.M. 1947, is amended to read as follows:

"84-801. Assessment of railroads. The president, secretary, or managing agent, or such other officer as the ~~state~~ department of revenue may designate, of any corporation, and each person or association of persons, owning or operating any railroad in more than one county in this state, OR MORE THAN ONE STATE must, ~~on or before the first day of April of~~ each year, furnish the department a statement, signed and sworn to by one of such officers, or by the person or one of the persons forming such association, showing in detail for the year ending ~~on the thirty-first day of~~ December 31, immediately preceding:

(1) ~~the~~ the whole number of miles of railroad in the state; and, where the line is partly out of the state, the

whole number of miles without the state, and the whole number within the state, owned or operated by such corporation, person, or association;

(2) the value of the roadway, roadbed, and rails of the whole railroad, and the value of the same within the state;

(3) the width of the ~~right-of-way~~ right-of-way;

(4) the number of each kind of all rolling stock used by such corporation, person, or association in operating the entire railroad, including the part without the state;

(5) ~~Number~~ the number, kind, and value of rolling stock owned and operated in the state;

(6) ~~Number~~ the number, kind, and value of rolling stock used in the state, but ~~now~~ not owned by the party making the returns;

(7) ~~Number~~ the number, kind, and value of rolling stock owned but used out of the state, either upon divisions of road operated by the party making the returns, or by and upon other railroads;

(8) ~~The~~ the whole number of sidetracks in each county, including the number of miles of track in each railroad yard in the state;

(9) ~~The~~ the number of each kind of rolling stock used in operating the entire railroad, including the part without the state, which must include a detailed statement of the

number and value thereof, of all engines, passenger, mail, express, baggage, freight, and other cars, or property owned or leased by such corporation, persons, or association;

(10) ~~The~~ the number of sleeping and dining cars not owned by such corporation, person, or association, but used in operating the railroads of such corporation, person, or association in the state, or on the line of the road without the state, during each month of the year for which the return is made; also the number of miles each month ~~said~~ the cars have been run or operated within and without the state;

(11) ~~A~~ a description of the road, giving the points of entrance into and the points of exit from each county, with a statement of the number of miles in each county. When a description of the road ~~shall have~~ has once been given, no other annual description thereof is necessary, unless the road ~~shall have~~ has been changed. Whenever the road, or any portion of the road, is advertised to be sold, or is sold for taxes, either state or county, no other description is necessary than that given by, and the same is conclusive upon, the person, corporation, or association giving the description. No assessment is invalid on account of a misdescription of the railroad, or the ~~right-of-way~~ right-of-way for the same. If such statement is not furnished as above provided, the assessment made by the

~~state~~ department of revenue upon the property of the corporation, person, or association failing to furnish the statement is conclusive and final.

~~(12)--Also-showing-in-detail-for-the-year-preceding-the first-of-January:~~

~~(a)~~(12) the gross earnings of the entire road;

~~(b)~~(13) the gross earnings of the road within the state, and where if the railroad is let to other operators, how much was derived by the lessor as rental;

~~(c)~~(14) the cost of operating the entire road, exclusive of sinking fund, expenses, of land department, and money paid to the United States;

~~(d)~~(15) net income for such year, and amount of dividend declared;

~~(e)~~(16) capital stock authorized;

~~(f)~~(17) capital stock paid in;

~~(g)~~(18) funded debt;

~~(h)~~(19) number of shares authorized;

~~(i)~~(20) number of shares of stock issued;

~~(13)~~(21) any other facts the ~~state~~ department ~~of revenue~~ may require."

Section 11. Section 84-802, R.C.M. 1947, is amended to read as follows:

"84-802. Assessment, ~~--~~ how made. The ~~state~~ department ~~of-revenue~~ must assess the franchise, roadway, roadbed,

rails, and rolling stock of all railroads operated in more than one county. All rolling stock must be assessed in the name of the person, corporation, or association owning, leasing, or using the same. Assessment must be made to the corporation, person, or association of persons owning or leasing or using the same, and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the ~~right-of-way~~ right-of-way, and all other property owned or leased by such person, corporation, or association, except as above provided, shall be assessed by an agent of the ~~state~~ department ~~of-revenue~~ in the county ~~wherein~~ where they are located ~~situate. After---making--such--assessment,--the department-shall-give-written-notice-thereof-to--such--owner or--operator.-Within-ten-(10)-days-the-owner-or-operator,-or any-taxpayer,-may-appear-at-the--department--of--revenue--in person,--or--otherwise,--to--show--cause-why-such-assessment should-be-either-lowered-or-raised.-On-or-before-the--second Monday---in---July,--the--department--shall--apportion--such assessment-to-the-counties,-school-districts,-cities,-towns, and--other--tax--subdivisions,--in--which--such--railroad--is located.~~"

Section 12. Section 84-901, R.C.M. 1947, is amended to read as follows:

"84-901. Officers of certain telegraph, telephone,

electric power, and other lines to furnish statement to ~~state~~ department ~~of--revenue.~~ The president, secretary, or managing agent, or such other officer as the ~~state~~ department of revenue may designate, of any corporation, and each person or association of persons owning or operating a telegraph, telephone, microwave, electric power or transmission line, natural gas pipeline, oil pipeline, canal, ditch, flume, or other property, other than real estate not included in ~~right-of-way~~ right-of-way, and which constitute a single and continuous property throughout more than one county, or state, ~~must, on or before the first Monday of March in~~ each year, furnish the ~~state~~ department ~~of--revenue~~ a statement, signed and sworn to by one of such officers or by the person or one of the persons forming such association, showing in detail for the year ending on ~~the thirty-first--day--of~~ December 31, immediately preceding, as follows:

~~1.~~ (1) ~~The~~ the whole number of miles of said property in the state, and where the property is partly out of the state, the whole number of miles without the state and the whole number of miles within the state owned or operated by such corporation, person, or association;

~~2.~~ (2) ~~The~~ the total value of the entire property and plant both within and without the state, and the total value of that portion of the same within the state;

~~3.~~ (3) A a complete description of the property within the state, giving the points of entrance into and the points of exit from the state, and the points of entrance into and the points of exit from each county, with a statement of the total number of miles in each county in the state; ~~and~~

~~4.~~ (4) such other information regarding such property as may be required by the ~~state~~ department ~~of revenue.~~"

Section 13. Section 84-905, R.C.M. 1947, is amended to read as follows:

"84-905. Assessment of property -- apportionment to counties. The department must assess all the properties described in ~~section~~ 84-901, but franchises granted by the United States must not be assessed, the value of such properties for assessment purposes to be determined upon such factors as the department ~~shall deem~~ considers proper.

~~On or before the second Monday in July, the department shall apportion such assessment to the counties in which the properties are situated.~~"

Section 14. Section 84-5402, R.C.M. 1947, is amended to read as follows:

"84-5402. Net proceeds tax -- statement of yield, ~~penalty, extension of time.~~ Every person, partnership, corporation, or association, engaged in mining, extracting, or producing from any quartz vein or lode, placer claim, dump, or tailings, or other place or sources whatever,

precious stones or gems, gold, silver, copper, lead, ~~petroleum, natural gas,~~ or other valuable mineral, except coal, must on or before ~~the thirty-first day of~~ March 31 ~~of~~ each year make out a statement of the gross yield and value of the above-named metals or minerals from each mine owned or worked by such person, corporation, or association during the year preceding ~~the first day of~~ January 1 of the year in which such statement is ~~made, and the value thereof.~~ Such statement shall be in the form prescribed by the ~~state~~ department of revenue, and must be verified by the oath of ~~such~~ the person completing the statement or the manager, superintendent, agent, president, or vice-president of ~~such~~ the corporation, association, or partnership, and must be delivered to the ~~state~~ department of revenue on or before ~~the thirty first day of~~ March 31. Such statement shall show the following:

~~1.~~ (1) the name and address of the owner or lessee or operator of the mine, together with the names and addresses of any and all persons, corporations, or associations owning or claiming any royalty interest in the mineral product of such mine or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons, corporations, or associations during the period covered by the statement;

~~2.~~ (2) the description and location of the mine;

~~3.~~ (3) the number of tons of ore, barrels of petroleum, cubic feet of natural gas, or other mineral products or deposits extracted, produced, and treated or sold from the mine during the period covered by the statement;

~~4.~~ (4) ~~The~~ the amount and character of such ores, mineral products, or deposits, and the yield of such ores, mineral products, or deposits from such mine in constituents of commercial value; that is ~~to say,~~ the number of ounces of gold or silver, pounds of copper or lead, barrels of petroleum or other crude or mineral oil, cubic feet of natural gas, or other commercially valuable constituents of ~~said~~ the ores, ~~or~~ mineral products or deposits, measured by standard units of measurement, yielded to such person, corporation, or association so engaged in mining, and to ~~said~~ each royalty ~~holders and each of them~~ holder, if any, during the period covered by the statement;

~~5.~~ (5) ~~The~~ the gross yield or value in dollars and cents;

~~6.~~ (6) ~~Actual~~ actual cost of extracting ~~same~~ from the mine;

~~7.~~ (7) ~~Actual~~ actual cost of transporting to place of reduction or sale;

~~8.~~ (8) ~~Actual~~ actual cost of reduction or sale;

~~9.~~ (9) ~~Actual~~ actual cost of marketing the product and conversion of same into money;

~~10.~~ (10) ~~Cost~~ cost of construction, repairs, and betterments of mines, and cost of repairs and replacements of reduction works;

~~11.~~ (11) ~~The~~ the assessed valuation of reduction works for the calendar year for which such return is made;

~~12.~~ (12) ~~Actual~~ actual cost of fire insurance and ~~workmen's~~ workers' compensation insurance.

~~If any person shall fail, neglect or refuse to file the statement required by this section within the time required, or within any extended period of time allowed, the state department of revenue when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state department of revenue required by this section. The state department of revenue shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state department of revenue and deposited to the credit of the general fund of the state of Montana.~~

~~The state department of revenue shall, upon a showing of reasonable cause, grant an extension of time for filing~~

~~the statement required by this section. This penalty shall be in addition to penalties provided in section 84-5418.~~"

Section 15. Section 84-5403, R.C.M. 1947, is amended to read as follows:

"84-5403. Net proceeds -- how computed. (1) The ~~state~~ department ~~of revenue~~ shall calculate ~~and compute~~ from ~~said~~ the returns the gross product yielded from such mine, and its gross value ~~in dollars and cents~~ for the year covered by the statement, and ~~also~~ shall calculate and compute the net proceeds ~~in dollars and cents~~ of ~~said~~ the mine yielded to ~~such~~ the person, corporation, or association so engaged in mining. ~~which said~~ net Net proceeds shall be ~~ascertained and~~ determined by subtracting from the value ~~in dollars and cents~~ of the gross product thereof the following ~~to wit~~:

~~1.~~ (a) ~~All~~ all royalty paid or apportioned in cash or in kind by the person, corporation, or association so engaged in mining;

~~2.~~ (b) ~~All~~ all moneys expended for necessary labor, machinery, and supplies needed and used in the mining operations and developments;

~~3.~~ (c) ~~All~~ all moneys expended for improvements, repairs, and betterments necessary in and about the working of the mine, except as hereinafter provided;

~~4.~~ (d) ~~All~~ all moneys expended for costs of repairs and replacements of the milling and reduction works used in

connection with the mine;

5.~~(e) Depreciation~~ depreciation in the sum of ~~six--per cent--(6%)~~ of the assessed valuation of such milling and reduction works for the calendar year for which such return is made;

6.~~(f) All~~ all moneys actually expended for transporting the ores, and mineral products or deposits from the mines to the mill or reduction works or to the place of sale, and for extracting the metals and minerals therefrom, and for marketing the product and the conversion of the same into money;

7.~~(g) All~~ all moneys expended for fire insurance and ~~workmen's~~ workers' compensation insurance, and for payments by mine operators to welfare and retirement funds when provided for in wage contracts between mine operators and employees.

(2) In computing the deductions allowable for repairs, improvements, and betterments to the mine, the ~~state~~ department ~~of--revenue~~ shall ~~compute and~~ allow ~~ten per cent (10%)~~ 10% of such cost each year for a period of ~~ten (10)~~ 10 years.

(3) No moneys invested in mines or improvements ~~shall~~ may be allowed as a deduction unless all machinery, equipment, and buildings represented by such moneys ~~shall be~~ are returned to the county in which such mine is located for

assessment purposes, at the level of assessment of all other property in such county.

(4) No moneys invested in the mines and improvements during any year, except the year for which such statement is made, and except as ~~hereinbefore~~ provided in this section, ~~shall~~ may be included in such expenditures; and such expenditures ~~shall~~ may not include the salaries or any portion thereof, of any person or officer not actually engaged in the working of the mine or superintending the management thereof."

Section 16. Section 84-5405, R.C.M. 1947, is amended to read as follows:

"84-5405. Lien of tax and penalty. The tax and/or penalty so assessed on net proceeds ~~shall be and shall constitute~~ are a lien upon all of the right, title, and interest of such operator in or to such mine or mining claim and upon all of the right, title, and interest in or to the machinery, buildings, tools, and equipment used in operating ~~said~~ the mine or mining claim, ~~and the~~ The tax and/or penalty on such net proceeds may be collected, and the payment ~~thereof~~ enforced, by the seizure and sale of the personal property upon which the ~~said~~ tax and/or penalty ~~is~~ are a lien, in the same manner as other personal property is seized and sold for delinquent taxes, or by the sale of the mine and improvements, as provided for the sale of real

property for delinquent taxes, or by the institution of a civil action for its collection in any court of competent jurisdiction, ~~--provided, --however, --that a resort~~ Resort to any one of the methods of enforcing collection, ~~--as --herein provided for,~~ shall not bar the right to resort to either or both of the other methods, but ~~that~~ any two or all of the methods ~~herein provided for~~ may be used until the full amount of such tax and/or penalty is collected."

Section 17. Section 84-5407, R.C.M. 1947, is amended to read as follows:

"84-5407. False or fraudulent reports, procedure in case of. If any ~~such~~ report required by this chapter contains any willfully false or fraudulent statements as to the gross amount received by any person, corporation, or association ~~so~~ engaged in mining ~~as --aforesaid,~~ for any mine's product, then the ~~said state~~ department ~~of revenue~~ shall compute the gross value of such mine's product, ~~--and such --gross value shall be~~ based upon the average quotations of the price of such mine's product in New York City, or the relative market value at the point of delivery, as evidenced by some established authority or market report, ~~such as the Engineering and Mining Journal of New York City, or some other standard publication, giving the market reports for the year covered by the statement; --and, --provided --further, that --if~~ If any such person, corporation, or association has

sold or otherwise disposed of any of its mine's product at a price substantially below the true market price of such product at the time and place of such sale or disposal, then the ~~state~~ department ~~of --revenue~~ shall compute the gross value of such portion or ~~said~~ the mine's product, so sold or disposed of substantially below the market price ~~as aforesaid,~~ which gross value shall be based upon the quotations of the price of such mine's product in New York City, or the relative market value at the point of delivery at the time such portion of the product was so sold or otherwise disposed of, as evidenced by some established authority or market report, ~~such as the Engineering and Mining Journal of New York City, or some other standard publication giving the market reports for the year covered by such statement.~~ Should there be no quotation covering any particular product, then the ~~state~~ department ~~of revenue~~ shall fix the value of such gross product, or such portion thereof, as shall have been sold or otherwise disposed of at a price substantially below the true market price at the time and place of such sale or disposal in such a manner as may seem to be equitable."

Section 18. Section 84-6201, R.C.M. 1947, is amended to read as follows:

"84-6201. Definitions. (1) The term "person", as used in this act, ~~shall mean~~ means and ~~include~~ any includes an

individual, firm, ~~copartnership--and~~ partnership, every corporation, joint-stock company, syndicate, ~~and~~ or association.

(2) The terms "operator" and "producer" ~~shall~~ mean any person ~~as--defined--above~~ who engages in the business of ~~mining,--or~~ drilling for, ~~or~~ extracting, or producing any natural gas, petroleum, or other crude or mineral oil.

(3) The term "well" includes each single well or group of wells, including dry wells, in one field or production unit and under the control of one operator or producer."

Section 19. Section 84-6202, R.C.M. 1947, is amended to read as follows:

"84-6202. Statement of yield--~~penalty--extension of time.~~ ~~Every--person--engaged--in--mining--upon---any---mine whatsoever--containing~~ Each operator or producer of natural gas, petroleum, or other crude or mineral oil must on or before ~~the--thirty-first--day--of~~ March 31 in each year make out and deliver to the ~~state~~ department of revenue a statement of the gross yield of such natural gas, petroleum, or other crude or mineral oil from each ~~mine~~ well owned or worked by such person during the next preceding calendar year, and the value thereof. Such statement shall be in the form prescribed by the ~~state~~ department ~~of--revenue~~ and must be verified by the oath of ~~such--person~~ the operator or producer or the manager, superintendent, agent, president,

or vice-president of such corporation, association, or partnership. Such statement shall show the following:

~~1.~~ (1) ~~The~~ the name and address of the operator ~~of--the mine,~~ together with a list in duplicate of the names and addresses of any and all persons owning or claiming any royalty interest in the ~~mineral--product--of--such--mine~~ production from the well or the proceeds derived from the sale thereof, and the amount or amounts paid or yielded as royalty to each of such persons during the period covered by the statement;

~~2.~~ (2) ~~The~~ the description and location of the ~~mine~~ well;

~~3.~~ (3) ~~The~~ the number of cubic feet of natural gas, barrels of petroleum, or other crude or mineral oil extracted or produced from the ~~mine~~ well during the period covered by the statement;

~~4.~~ (4) ~~The~~ the gross yield or value in dollars and cents;

~~5.~~ (5) ~~Actual~~ actual cost of extracting ~~same--from--mine~~ product from well;

~~6.~~ (6) ~~Cost~~ cost of construction, repairs, and betterments ~~of--mines~~;

~~7.~~ (7) ~~Actual~~ actual cost of fire insurance and workmen's workers' compensation insurance.

~~If--any--person--shall--fail,--neglect--or--refuse--to--file--the~~

~~statement required by this section within the time required or within any extended period of time allowed, the state department of revenue when transmitting the net proceeds valuations to the counties shall inform the county assessor of such failure, neglect or refusal and the county assessor in addition to the net proceeds tax, if any, shall assess a penalty of 2/3 of 1% of such tax for each calendar month or fraction thereof that the required statement is not filed, deducting therefrom any moneys collected by the state department of revenue required by this section. The state department of revenue shall assess a penalty of $25 for each calendar month or fraction thereof, not exceeding four months, that the required statement is not filed, to be collected by the state department of revenue and deposited to the credit of the general fund of the state of Montana.~~

~~The state department of revenue shall upon a showing of reasonable cause, grant an extension of time for filing the statement required by this section.~~

~~This penalty shall be in addition to penalties provided in section 84-6209.~~"

Section 20. Section 84-6203, R.C.M. 1947, is amended to read as follows:

"84-6203. Net proceeds -- how computed. (1) The ~~state~~ department of revenue shall calculate and compute from ~~said~~ the returns the gross product yielded from such ~~mine~~ well

and its gross value ~~in dollars and cents~~ for the year covered by the statement, and ~~also~~ shall calculate ~~and~~ compute the net proceeds ~~in dollars and cents~~ of ~~said mine~~ the well yielded to the producer, ~~such person so engaged in mining~~, which ~~said~~ net proceeds shall be ~~ascertained and~~ determined by subtracting from the value ~~in dollars and cents~~ of the gross products thereof the following, ~~to wit:~~

~~1.~~ ~~All~~ (a) all royalty paid or apportioned in cash or in kind by the ~~person so engaged in mining~~ operator or producer;

~~2.~~ ~~All~~ (b) all moneys expended for necessary labor, machinery, and supplies needed and used in the ~~mining~~ operations and developments;

~~3.~~ ~~All~~ (c) all moneys expended for improvements, repairs, and betterments necessary in and about the working of the ~~mine~~ well;

~~4.~~ ~~All~~ (d) all moneys expended for fire insurance and ~~workmen's~~ workers' compensation insurance, and for payments by operators to welfare and retirement funds when provided for in wage contracts between operators and employees.

(2) No moneys invested in the ~~mines~~ well and improvements during any year, except the year for which such statement is made, ~~shall~~ may be included in such expenditures, except as provided in ~~section~~ 84-6204; and such expenditures ~~shall~~ may not include the salaries, or any

portion thereof, of any person or officer not actually engaged in the working of the ~~mine~~ well or superintending the management thereof."

Section 21. Section 84-6403, R.C.M. 1947, is amended to read as follows:

"84-6403. Report by airline company. Every airline company engaged in air commerce in this state shall annually, ~~on or before the first day of May,~~ file with the department of revenue, in such form as the department may require, a report under oath, showing the following:

(1) ~~The~~ the name of the person or persons, association, joint-stock company, or corporation;

(2) ~~Under~~ under the laws of what state organized or existing;

(3) ~~The~~ the location of its principal office;

(4) ~~The~~ the location of its principal office in this state, if any;

(5) ~~The~~ the number of aircraft of each type or kind, the total original cost, the average cost per plane, the total depreciated cost, and the average depreciated cost per plane at the end of the preceding calendar year;

(6) ~~The~~ the number of shares of capital stock authorized, number of shares outstanding, the total par value and the total market value at the end of the preceding calendar year; the par value of outstanding bonds and ~~long~~

term long-term debt, and the market value at the end of the preceding calendar year;

(7) ~~Income~~ income account showing operating revenues and expenses of the entire system and net operating income during the preceding calendar year;

(8) ~~The~~ the total tonnage of passengers, express, and freight first received by the airline company in this state during the preceding calendar year plus the total tonnage of passengers, express, and freight finally discharged by it within this state during the preceding calendar year, and the total of such tonnage first received by the airline company or finally discharged by it, within and without this state during the preceding calendar year;

(9) ~~The~~ the total time in equated plane hours, of all aircraft of the scheduled airline company in flight in this state during the preceding calendar year, plus the total time of such aircraft on the ground in this state during the preceding calendar year and the total of such time in flight or on the ground within and without this state during the preceding calendar year;

(10) ~~The~~ the number of revenue ~~ton-miles~~ ton-miles of passengers, mail, express, and freight flown by the scheduled airline company within this state during the preceding calendar year and the total number of such miles flown by it within and without this state during the

preceding calendar year;

(11) ~~The~~ the number of arrivals and departures of all aircraft of the scheduled airline company in this state during the preceding calendar year and the total number of such arrivals and departures within and without this state during the preceding calendar year;

(12) ~~Such~~ such other information as the department of revenue may require."

Section 22. Repealer. Sections 84-719, 84-720, 84-721, 84-722, 84-802.1, 84-803, 84-804, 84-903, 84-903.1, 84-904, 84-906, 84-907, 84-5408, 84-5410, 84-6207, 84-6209, 84-6402, 84-6405, 84-6405.1, 84-6406, 84-6407, 84-6408, and 84-6410, R.C.M. 1947, are repealed.

-End-